

NORTH CAROLINA

DEPARTMENT OF COMMERCE

2017-2023

SMALL BUSINESS RECOVERY ASSISTANCE PROGRAM INFORMATION AND PROCEDURES GUIDE

Community Development Block Grant Disaster Recovery (CDBG-DR)



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PROGRAM INFORMATION AND PROCEDURES GUIDE

NC Small Business Recovery Assistance Program

Version Control

Version Number	Date Revised	Description of Revisions
1.0		Original – Effective October 17, 2017
1.1	30 MAR 2018	Various process descriptions updated to reflect current practice.
1.2	10 JAN 2019	Removal of specific administrative elements (agreement components)
1.3	28 FEB 2019	6.0 Grant Parameters: changed cap on activity delivery costs to 10%; added field descriptor page to Exhibit E-1, Lender Request to Commit Funds; added DOC DOB procedure to Exhibit E-2 to define the procedure for determining the maximum amount available per loan.

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Information and Procedures Guide

North Carolina CDBG-DR Small Business Recovery Assistance Program

i. PURPOSE

This manual is provided to establish the policies and procedures defining the North Carolina CDBG-DR Small Business Recovery Assistance (SBRA) Program. It is intended to provide direction and guidance for entities desiring to apply for grants from this program, to provide direction and guidance for grant recipients in the execution of the program, and to the public to provide information on the establishment and implementation process of the program.

ii. INTRODUCTION

The North Carolina Department of Commerce (Commerce) has established the availability of \$10,000,000 in federal Community Development Block Grant (CDBG) Program Disaster Recovery funds for small businesses located in areas impacted by Hurricane Matthew, especially the four most impacted counties: Robeson, Cumberland, Edgecombe, and Wayne. The funding has been allocated to the State of North Carolina (State) by the U.S. Department of Housing and Urban Development (HUD) pursuant to the Housing and Community Development Act of 1974, as amended. The Department of Housing and Urban Development (HUD) appropriated \$198,553,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) funding to the State of North Carolina, using the best available data to identify and calculate unmet needs for disaster relief, long-term recovery, restoration of infrastructure, and housing and economic revitalization. In addition, 80% of the total funds, or \$158,842,400, will go to the most impacted areas. This program is established in the State of North Carolina CDBG-DR Action Plan, March 31, 2017, and updated through subsequent amendments.

1.0. THE PROGRAM

1.1 Program Administration

The Rural Economic Development Division of the North Carolina Department of Commerce (NCDOC) has administrative responsibility for the CDBG program. State rules applicable to the CDBG program are found in North Carolina Administrative Code 4 NCAC 19L. Additional rules and requirements governing the NC CDBG-DR Small Business Recovery Assistance Program are provided in this document.

1.2. Purpose of the Program

According to the North Carolina Department of Emergency Management, Hurricane Matthew caused non-residential property damage in 42 North Carolina counties in October 2016. In total, 19,603 non-residential buildings were damaged, resulting in \$7523 million worth of damage. Following the storm, 8,796 businesses requested applications for recovery loans from the U.S. Small Business Administration (SBA). Of these, 1,054 applied for SBA Business Disaster Loans. As of February 26, 2017, SBA had approved only 348 (33% approval rate) of the applications for \$23.4 million of financing. In comparison to Hurricane Floyd in 1999, 6,203 businesses applied for SBA Business Disaster Loans, about 65% of which were approved for \$188 million in financing. In response, the Governors' Hurricane Recovery Office has requested that \$10,000,000 of CDBG-DR funds be allocated to support small businesses in hurricane-affected areas. The North Carolina Department of commerce will administer these funds given the Department's extensive experience supporting small

businesses with resources and technical assistance, and its relationships with key partners including SBA Small Business and Technology Development Centers and Community Development Financial Institutions.

The Small Business Recovery Assistance (SBRA) Program will offer grants to lending entities to provide credit and deferred/forgivable loan products to small businesses in flood-affected areas, helping to improve the availability and accessibility of commercial credit in hurricane-affected areas and economically impacted communities.

2.0 NATIONAL OBJECTIVES

All project activities that are funded by SBRA Program loans must meet a national objective to be eligible for CDBG-DR funds. There are three National Objectives in the CDBG program. This program falls under two National Objectives: providing benefit to low- and moderate- income (LMI) persons and meeting urgent needs. Low or moderate income is defined as income at eighty percent or less of the median income of the service area addressed. Meeting an urgent need is defined as acting to alleviate existing conditions to which the program recipient certifies as posing a serious and immediate threat to the welfare of a community, are of recent origins, actions to alleviate cannot be financed by the recipient on its own, and other resources or funding are not available to carry out the actions.

3.0 HUD PERFORMANCE MEASURES

The U. S. Department of Housing and Urban Development (HUD) has established economic development outcomes and objectives. All SBER projects must meet the following objective and outcome:

Objective: Creating Economic Opportunities

Outcome: Economic development activities that focus primarily on improving the availability/accessibility of jobs for residents

4.0 ELIGIBLE PROGRAM PARTICIPANTS AND PROGRAMS

Eligible program participants include all interested Small Business Development Organizations, Nonprofit Small Business Lending Intermediaries (including Community Development Financial Institutions, or CDFI's), Local Governmental Entities, and formal partnerships organized among such entities. Eligible programs include small business lending programs that expand access to small business credit within flood-affected areas, especially the most impacted areas of Robeson, Cumberland, Edgecombe, and Wayne counties.

5.0 GRANTEE SELECTION CRITERIA AND FUNDING PRIORITIES

NC Commerce will select grantees through a competitive application process that will rank lender experience, small business need, deployment speed, and loss expectations, among other items, to determine up to three small business lending programs that can be deployed with flood-affected areas. Successful applicants will have standard, uniform underwriting procedures, a proven track record of small business lending, local experience in the flood-affected areas, and experience managing federal grant programs.

In addition, funding priority will be given to programs that target at least five of nine of the following criteria/outcomes:

- Expand access to small business credit within flood-affected areas, especially the most impacted areas: Robeson, Cumberland, Edgecombe, and Wayne counties.
- Comply with all federal and state CDBG compliance and reporting guidelines for business lending.
- Be able to identify and quantify a specific geographic, sector, or structural capital need that would not be funded but for this infusion of grant capital into the applicant lender.
- Be able to identify and quantify a well-defined pipeline of existing small businesses that would not be funded but for this infusion of grant capital into the applicant lender.
- Low to moderate projected portfolio default risk, allowing funds to be deployed multiple times.
- Projected average commercial loan size is below \$100,000, maximum loan amounts of \$150,000.
- Deploy the majority of granted funds into small businesses by March 31, 2018.
- Deploy granted funds in a way that enables small businesses to restart, improve or expand an existing business in the most impacted areas: Robeson, Cumberland, Edgecombe, and Wayne counties.
- Drive economic activity as a part of a community resiliency plan or part of a community economic development plan.

Applications will be reviewed based on the information given by the applicant whose Chief Executive or Elected Official has certified the correctness of the contents. **Any determination that deliberate misrepresentation (or fraud) has occurred will result in the disqualification of the applicant and/or the rescission of a grant at any point from the award to closeout.**

6.0 GRANT PARAMETERS

Awards under this program will be within these parameters:

- Grants up to \$5 million will be awarded to any single participating grantee/lender.
- Projects requesting maximum grant amounts must meet most of the program priorities and have significant economic impact in the hurricane-affected communities.
- Grant funds will be disbursed to grantees upon demonstration of disbursement of funds for SBRA Program-eligible and NC Department of Commerce-approved small business loans.
- Reimbursement of grantee-disbursed funds to a loan under the SBRA Program will require submission to and acceptance by the NC Department of Commerce of selective loan documents to be specified and specific proof of disbursement.
- Monthly reporting on program progress will require each grantee to provide a narrative update on results of outreach to targeted businesses, businesses and their projects considered as loan candidates, and loans awarded.
- Monthly reporting will also include submission of a program-to-date table of loans awarded, including details of projects funded, nature and location of each small business receiving a loan, the national objective addressed by each loan, and additional details that may be defined after award.
- Nonprofit commercial lending intermediaries may use up to 5% of total grant award for grant administrative cost, and an additional 10% for activity delivery costs. These amounts may be revised at the discretion of the Department of Commerce.

6.1 Businesses Eligible as Lending Program Borrowers

Businesses eligible to receive funds as loans, deferred/forgivable loans, or a combination of both from the applicant through the NC Small Business Recovery Assistance Program are those that:

1. Meet the standards of a small business as defined in Title 13, Code of Federal Regulations, Part 121 (13 CFR part 121).
2. Require funds to recover from Hurricane Matthew-caused physical or economic damage, especially flooding.
3. Have no other source of funds for their unmet needs to meet Matthew recovery costs.
4. Have their primary place of business located in Matthew-impacted areas of North Carolina eligible for federal assistance, especially the counties of Robeson, Cumberland, Edgecombe, and Wayne. The eligible areas are the counties listed below:

NORTH CAROLINA COUNTIES IMPACTED BY HURRICANE MATTHEW	
1. Anson County	26. Jones County
2. Beaufort County	27. Lee County
3. Bertie County	28. Lenoir County
4. Bladen County	29. Martin County
5. Brunswick County	30. Montgomery County
6. Camden County	31. Moore County
7. Carteret County	32. Nash County
8. Chatham County	33. New Hanover County
9. Chowan County	34. Northampton County
10. Columbus County	35. Onslow County
11. Craven County	36. Pamlico County
12. Cumberland County	37. Pasquotank County
13. Currituck County	38. Pender County
14. Dare County	39. Perquimans County
15. Duplin County	40. Pitt County
16. Edgecombe County	41. Richmond County
17. Franklin County	42. Robeson County
18. Gates County	43. Sampson County
19. Greene County	44. Scotland County
20. Halifax County	45. Tyrrell County
21. Harnett County	46. Wayne County
22. Hertford County	47. Wake County
23. Hoke County	48. Warren County
24. Hyde County	49. Washington County
25. Johnston County	50. Wilson County

6.2 Eligible Activities

All small business activities financed by CDBG-DR funds under the SBRA Program must meet the applicable criteria as set forth by the NC Small Business Recovery Assistance Program and applicable CDBG National Objectives. All program activities must meet applicable CDBG National Objectives. All the activities funded through the SBRA Program are required to meet either the national objective of benefit to low- and moderate-income (LMI) persons, or the national objective of urgent need. Grantees under the LMI and Urgent Need National Objectives must be able to document how funds responded to the disaster-related impact. The State oversees eligibility determinations and makes the final decisions on eligibility in instances where existing policies are not yet defined.

Eligible activities include:

- Financing for payment of interior and exterior repairs and property improvements to owner- and renter-occupied commercial properties (including permits, engineering and architectural costs). These improvements may include ADA accessibility improvements.
- Financing for furniture, fixtures, and equipment (FF&E). Also, purchase and installation of equipment.
- Using loan financing for working capital or to pay for marketing costs, operating expenses, and inventory.
- Funds for relocations of any displaced persons due to the CDBG project development are also eligible under this program.

Refinancing existing debt is not an eligible activity for use of CDBG-DR funds. However, refinancing existing debt is an allowable activity with a program loan package as long as it is clearly identified as funded by matching grantee-provided funds, and use is confirmed at the completion of the loan term.

6.3 Grantee Lending Program Economic Development Commitment & Reporting

The objective of the SBRA program is to expand access to small business credit within Hurricane Matthew flood-affected areas. The intended outcome is for small businesses impacted by Matthew with no other source of funding to begin to recover from the physical and economic impacts of the storm, as indicated by retention of existing employees and the addition of new employees. For loans meeting the National Objective of benefit to low- and moderate- income persons, each borrower shall execute a binding commitment with the lender specifying the number and type of permanent LMI jobs to be added or retained as a direct result of funds provided as a condition of receiving favorable loan terms. After the first thirty-six (36) months of the loan term, if the borrower has not created or retained the jobs specified in the loan commitment, favorable loan terms may be cancelled, and fund recovery actions may begin.

6.31 Requirements for Jobs to Be Considered Created or Retained

(Reference: Basically CDBG (May 2014), HUD, Office of Block Grant Assistance)

The following requirements must be met for jobs to be considered created or retained.

- If grantees fund activities that create jobs, there must be documentation indicating that at least 51 percent of the jobs will be held by, or made available to, LMI persons.
- For funded activities that retain jobs, there must be enough information documenting that the jobs would have been lost without the CDBG assistance and that one or both of the following applies to at least 51 percent of the jobs:
 - The job is held by a LMI person; or
 - The job can reasonably be expected to turn over within the following two years and steps will be taken to ensure that the job will be filled by, or made available to, a LMI person.

The following requirements apply for jobs to be considered available to or held by LMI persons.

- Created or retained jobs are only considered to be available to LMI persons when:
 - Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and
 - The grantee and the assisted business take actions to ensure that LMI persons receive first consideration for filling such jobs.
- Created or retained jobs are only considered to be held by LMI persons when the job is actually held by a LMI person.

As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under the job creation and retention category for meeting a national objective. However, in certain cases, such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

6.32 Tracking and Reporting Economic Development Performance

To provide visibility of the effectiveness of this program, grantees are to be required to periodically obtain employment information from each of their funds recipients under this program as specified. Each small business borrower funded in any part by this program shall be required to provide employment information to the grantee lender for each active loan funded:

- At the initiation of the loan.
- Annually, at the start of each new year of the loan.
- At the end of the loan term.

Each grantee lender must include a summary of employment information collected to-date for all SBRA-funded loans in its monthly reporting of program progress. Presented below is a guideline for collection of employment information from the grantee lender's SBRA-funded borrowers.

6.33 Small Business Employment Reporting Guideline

The employment profile that follows is presented as a guideline for determining the employment information needed to assess the economic progress of each SBRA-funded small business. Each small business borrower should adjust the employment profile form to fit its specific structure. Grantee lenders will use the resulting reports as the basis for their monthly reporting of program employment statistics.

Employment Profile

Current
Year for
Existing
Industry**

End of
First Year

End of
Second Year

Current Year

1st Year

2nd Year

Date:

Date:

Date:

Date:
From _____
To _____

Date:
From _____
To _____

Date:
From _____
To _____

Professional:

_____	_____	_____	Management	_____	_____	_____
_____	_____	_____	Engineers	_____	_____	_____
_____	_____	_____	Accounting	_____	_____	_____
_____	_____	_____	Quality Control	_____	_____	_____
_____	_____	_____	Research/Dev.	_____	_____	_____
_____	_____	_____	Chemist, etc.	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Support:

_____	_____	_____	Clerical	_____	_____	_____
_____	_____	_____	Transportation	_____	_____	_____
_____	_____	_____	Maintenance	_____	_____	_____
_____	_____	_____	Programmers	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Production (By Skill Classification)

_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

_____	_____	_____
Total	Total	Total

Total Employment

Annual Payroll: _____

Of this number, _____ jobs will be filled by individuals of low and moderate incomes.

Employment Security Commission Account Number: _____

CEO/Authorized Representative Signature

Date

JOB CATEGORY DEFINITIONS

1. **Officials and Managers** – Occupants requiring administrative personnel who set broad policies, exercise overall responsibility of execution of these policies and individual departments or special phases of a firm's operations. This includes: Officials, Executives, middle management, plant managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers and kindred workers.
2. **Professional** – Occupants requiring either college graduation or experience of such kind and amount as to provide a comparable background includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, professional and labor relations workers, physical scientists, physicians, social scientists, teachers and kindred workers.
3. **Technicians** – Occupants requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post-high school education such as is offered in many technical institutions and junior colleges or through equivalent on the job training. This includes: computer programmers and operators, drafters, engineering aides, junior engineers, mathematic aides, licensed practical or vocational nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic physical science) and kindred workers.
4. **Sales** – Occupants engaging wholly or primarily in direct selling. This includes: advertising agenda and sales workers, insurance agents and brokers, real estate agents and brokers, sales workers, demonstrators and retail sales workers and sales clerks, grocery clerks and cashiers and kindred workers.
5. **Office and Clerical** – Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. This includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators and kindred workers.
6. **Craft Worker (skilled)** – Manual workers of relatively high level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. This includes: the building trades, hourly paid supervisors and lead operators (who are not members of management), mechanic and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors and kindred workers.
7. **Operatives (semi-skilled)** – Workers who operate machines or other equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. This includes: apprentices (auto mechanics, plumbers, electricians, machinists,

mechanics, building trades, metal working trades, printing trades, etc.), operatives, attendants (auto service and parking) plasters, chauffeurs, delivery workers, dress makers and sewers (except factory), dryer's furnaces workers, heaters (metal), laundry and dry cleaning, operatives, milliners, mine operatives and laborers, motor operators, pliers and greasers (except auto), painters (except construction and maintenance), photographic process workers, boiler tenders, truck and tractor drives, weavers (textile), welders and flame metals workers and kindred workers.

8. **Laborers (unskilled)** – Workers in manual occupations which generally require no special training perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. This includes: garage laborers, car washers and greasers, gardeners (except farm) and groundskeepers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations and kindred workers.
9. **Service workers** – Workers in both protective and non-protective service occupations. This includes: attendants (hospital and other institutions, professional and personal service, including nurses' aides and orderlies), barbers, chairworkers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection guards, door keepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses and kindred workers.

Definitions are provided by the Economic Development Administration

7.0 COMPLIANCE REQUIREMENTS

Per the Housing and Community Development Act of 1974, as amended, the CDBG program has certain federal and state requirements that must be met. The grantee's program administrators are required to be familiar with the Act, along with rules published in the Federal Register of January 18, 2017, at 82 FR 5591, Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees. NC Administrative Code requirements of 4 NCAC Subchapter 19L (NC Community Development Block Grant Program) must also be met.

Note: If selected as a grantee, submit as part of the grant acceptance process, all documentation to release the standard grant conditions.

The following list is intended to provide program participants with a brief list of basic compliance areas that must be addressed.

1. Conflict of Interest

Per 24 CFR Part 570.489 (h), the following people or their immediate family members shall not have any direct or indirect financial interest in any contract, subcontract or the proceeds thereof for work to be performed in connection with the grant during their tenure or for one year thereafter: 1) employees or agents of the recipient who exercise any function or responsibility for the CDBG project, and 2) officials of the recipient including members of the governing body. The applicant will be asked to determine if a potential conflict exists. Questions regarding this item are in the program application. Please note that subrecipients must comply with these regulations as well. Consult with Community Investment Staff regarding conflict of interest questions or North Carolina Community Development Block Grant Program Regulations (4NCAC 19L.Section.0914).

2. National Objectives

In accordance with the provisions of the Housing and Community Development Act as amended, all CDBG-funded activities must meet one of three National Objectives: 1) benefiting low-and moderate-income persons, 2) preventing or eliminating blight, or 3) meeting other community development needs having a particular urgency. SBRA projects must meet either the National Objective of benefiting low- and moderate-income persons or the National Objective of meeting other community development needs having a particular urgency.

In accordance with the provisions of the Housing and Community Development Act as amended, each activity to be undertaken by an applicant must address a National Objective specified in the Act.

3. Program Income

Program income resulting from the CDBG-DR project will be returned to the NC Department of Commerce, unless otherwise expressed in the guidelines and/or application. For example, program income will result from loan repayments or the sale of assets purchased with CDBG-DR funds.

4. Administration of Project

If funded, grantee will meet minimal levels of supervision in implementing the project (lending program) as follows:

- a) Administrators of the project will give at least quarterly written status reports to the grantee organization's board of directors.
- b) At least two persons from the grantee's organization will review invoices and requests for payment.
- c) The grantee's program administrator reviews and signs off on all project reports.
- d) All project files will be maintained at the grantee's primary office and made available to citizens during regular business hours.

5. Audits/Compliance

CDBG grantees expending \$25,000 or more in a fiscal year are **required** to have funds audited for the CDBG program. CDBG funds can be used to pay for the CDBG portion of the audit provided the grantee has expended \$500,000 or more in the fiscal year in total federal awards (CDBG and other federal funds). If the grantee has expended less than \$750,000 in total federal awards, the grantee may budget local funds in the administrative line item in the CDBG application to pay for the CDBG portion of the audit and claim the local administrative funds as local commitment.

6. Procurement

The grantee must have a written Procurement Policy that meets the requirements specified in 24 CFR 85.36. The grantee may adopt The State of North Carolina's procurement policy and procedures. These may be found at http://www.doa.nc.gov/pandc/documents/Procurement_Manual_5_8_2013_interactive.pdf.

The procurement procedures must reflect applicable State and local laws, should promote free and open competition, and describe efforts to encourage minority and female owned businesses to submit bids/proposals. Grantees must contract for the procurement of goods, services, and construction projects including design services. CDBG grantees must enter procurement solicitation for any contract over \$25,000 in the Statewide Interactive Purchasing System (IPS) as well as provide the information to the REDD

Compliance Office. All notices must be posted in IPS at least three days before the procurement process begins.

7. Equal Opportunity

Applicants are required to ensure that CDBG-DR aided projects comply with equal opportunity and nondiscrimination laws and that people in protected categories are not excluded from project participation.

Applicants are required to take into consideration equal opportunity and non-discrimination laws in designing CDBG programs to ensure that people in protected categories are not excluded from participation, denied the benefit of, or subjected to discrimination under any program or activity funded in whole or in part with CDBG funds. The recipient of CDBG funds must describe the actions it will take annually for each year the grant is open in the areas of enforcement, education and removal of barriers and impediments that affirmatively further equal access in employment and procurement. This includes a description of steps to be taken in the areas of advertisement, compliance and complaint tracking.

8. Fair Housing

Recipients of CDBG funds will be required to comply with fair housing and non-discrimination laws and regulations. Applicants should consult Section .1001 of the CDBG administrative rules for further information on equal opportunity requirements. Applicants will be required to submit a Fair Housing Plan for the municipality and/or county. Applicants with 10,000 persons or more will be required to complete an Analysis of Impediments to Fair Housing Choice Study. For each year that a CDBG project is active, a recipient must describe the actions it will take in the areas of enforcement, education and removal of barriers and impediments to affirmatively further fair housing. For guidance for developing a Fair Housing Plan, grantees will refer to REDD Bulletin 10-25 (or any subsequent replacement versions) and the Implementation Notebook.

9. Language Access Plan (LAP)

As recipients of federal financial assistance, grantees have an obligation to reduce language barriers that can preclude meaningful access by Limited English Proficient (LEP) persons to important government programs, services, and activities. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and its implementing regulations require that recipients take responsible steps to ensure meaningful access by LEP persons. Applicants will be required to submit a Language Access Plan using the approved recommended template from REDD. The plan will be submitted for municipality and or county using the thresholds established by REDD. The plan will address the LAP policy, translation of required vital documents, and requirements for citizen participation.

10. Local Economic Benefit (Section 3)

Section 3 of the Housing and Urban Development Act of 1968, as amended, contains requirements governing programs providing direct financial assistance to public recipients and related contractors (or subcontractors).

For each year that a CDBG is active, a recipient must describe a strategy whereby opportunities in employment and procurement arising out of a CDBG assisted project are identified and made available to low income residents within the CDBG assisted area to the greatest extent feasible. This strategy must include (1) identification of training and technical assistance resources to prepare low income residents for employment

and procurement opportunities, (2) attempts to reach the numerical targets for new hires set forth in the Section 3 regulation, which applies to recipients receiving \$200,000 or more in non-administrative line items expended for construction contracts of at least \$100,000 per contract, and (3) education of low income residents within the CDBG assisted area about the components and opportunities of the program. **Once applicants are awarded funds, recipients will be required to submit a Section 3 Plan using the approved REDD template if appropriate. In addition, applicants will be required to coordinate additional activities as it relates to Section 3 with the REDD Compliance Section.**

11. Environmental Review

Recipients of CDBG funds are required to comply with the requirements of the National Environmental Policy Act of 1969 (NEPA) found at 24 CFR Part 58 and the NC State Environmental Policy Act and complete an Environmental Review Record (ERR). Program applicants are not to submit an ERR with the application. Please follow procedures outlined in REDD's *Environmental Technical Assistance Handbook*. Copies of the ERR and Handbook can be secured from REDD. **24 CFR Part 58 (Environmental Regulations) requires certain notices to be prepared and published by the local government applicant. This procedure is described in 24 CFR 58.40-47 and requires certain time periods to be allowed for public comment. Where applicable to the applicant, REDD must receive evidence of the publication of these notices as well as a Request for Release of Funds and Environmental Certification. Upon REDD determination that the public comment periods have elapsed if required, REDD will issue a letter approving the release of funds.** If the requirement for a period of public comment does not apply, the following process applies. When the grantee is ready to commit funds to a Program-supported loan, it will submit the form, "Lender Request to Commit Funds." This form must be accompanied by the related Environmental Review Report (ERR). The Department of Commerce CDBG Compliance Officer will review the ERR for compliance with regulatory requirements and consistency with the activities listed on the "Lender Request to Commit Funds". When the ERR is approved, the grantee will be notified by the receipt of the submitted "Lender Request to Commit Funds", signed by an authorized official indicating that the ERR is approved, the environmental review requirement has been met. No CDBG-DR funds for non-administrative activities will be released prior to the date of signature indicating approval on the "Lender Request to Commit Funds". Compliance Staff should be contacted concerning questions with the environmental review process.

12. Floodplain

For all funds provided to small businesses by grantees within this program, certification must be obtained that the relevant business site is not in a floodplain, or that the recipient participates in the floodplain insurance program. Obtain a letter from the local government stating the relationship of the site to designated flood zones. Grantees must retain in the record of each program financing action a certification signed by the CEO stating that the project area is not in a floodplain; or with certification that the recipient participates in the floodplain insurance program, all properties assisted in the project will be covered for floodplain insurance prior to initiation of the funded activities at the borrower's property; all program-funded activities will comply with the applicable floodplain regulations.

13. Section 504 of the Rehabilitation Act of 1973

The local government applicant must complete a Self-Evaluation plan and Transition Plan (if required) as required by Section 504 to ensure that it does not discriminate by reason of a person's disability.

Recipients of CDBG funds are required to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and the HUD implementing regulations at 24 CFR, Parts 8 and 9. The requirements of Section 504 apply to any recipient of federal CDBG funds for any program or activity carried out directly or through another recipient, successor, assignee, or transferee.

The Grant Agreement will require recipients to complete the Section 504 Survey and Transition Plan, covering policies, practices and physical accessibility and notify affected persons that it does not discriminate on the basis of handicap. (The latter notification action is a requirement if the recipient has 15 or more employees.) This plan will not satisfy all the requirements of the Americans with Disabilities Act, but it will meet the minimum requirements for a CDBG assisted project.

14. Anti-Displacement and Relocation Assistance Plan

A plan for residential anti-displacement and relocation must be documented or submitted with the application if the applicant is a unit of local government.

All occupied and vacant but suitable for occupancy low and moderate income dwelling units demolished or converted to a use other than as low/moderate income housing must be replaced within three years of the commencement of the demolition or rehabilitation related to the conversion.

Once CDBG-DR funds are awarded, recipients must have a plan to minimize residential displacement and to provide relocation assistance to displaced residents in a timely manner. Compliance with the plan must be documented, including the information made public and the means used to make it public.

The plan must include a description of the activity, a location map, a time schedule, dwelling data on target and replacement homes, funding sources, a schedule for replacement or relocation and the basis for concluding that replacement dwellings will remain low/moderate income for at least 10 years. A guide form for developing the plan should be obtained from REDD once an award is received.

15. Davis-Bacon and Related Labor Acts

Construction contracts financed whole or in part with CDBG-DR funds must comply with Davis-Bacon and Related Acts (DBRA). Grantees are responsible for enforcement of the DBRA requirements, such as on-site interview of workers, review of contractor's payrolls, and conducting a pre-construction conference. Construction contracts in excess of \$2,000 "financed in whole or in part..." with CDBG program funds require specific minimum wage levels. Recipients will also be required to comply with any subsequent requirements issued by the U.S. Department of Housing and Urban Development (HUD) and/or Community Investment.

16. Americans with Disabilities Act (ADA)

Grantees are required to comply with the provisions of Title I of the Americans with Disabilities Act (ADA) which protects qualified individuals with disabilities from discrimination in all state and local government programs and activities including employment.

Governments with 25 or more employees were subject to the law after July 26, 1992, and governments with 15 or more employees after July 26, 1994. If a government is not covered by Title I of the Act, Section 504 of the Rehabilitation Act of 1973 applies. All governments receiving federal financial assistance will continue to

be covered by Section 504. REDD will continue to monitor for only Section 504 compliance until otherwise required by HUD.

17. Reporting

Recipients must submit written monthly progress reports to REDD. In addition to providing an update on the status of lending activities, jobs created, and financial expenditures, REDD will expect participants to share their success stories with REDD. REDD requests copies of all published press articles, TV coverage, scheduled ribbon cuttings, and other events and milestones. Periodic photographs should document project stages, training, events and successes.

A monthly report is due by the 10th of the month following the end of each month, and an annual financial audit of the CDBG program is due at the close of each fiscal year in which at least \$25,000 in CDBG funds were received. The audit may be performed in conjunction with the regular independent audit of the recipient and will contain an examination of all financial aspects of the CDBG program as well as a review of the procedures and documentation supporting the recipient's compliance with applicable statutes and regulations. A Final Performance Report and audit will be required prior to grant closeout.

18. Monitoring

REDD will monitor the project through mechanisms, including review of monthly and annual reports received from the grantee, through phone/email/letter correspondence, through receipt of all published press articles about the project as provided to REDD by the grantee, and through on-site monitoring visits.

REDD staff will notify the grantee at least 10 days before on-site monitoring visits and will provide copies of monitoring forms to be used. Any performance findings or administrative concerns resulting from the monitoring review must be mutually resolved before a grant can be formally closed.

19. Financial Management Requirements

REDD will monitor the grantee to determine compliance with the financial management requirements. In particular, the review will determine if records are maintained in compliance with 2 CFR 200 (Grants and Agreements, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), and other State of North Carolina requirements. This monitoring is performed through desktop audit and at each on-site visit. Typically, ledgers, invoices, canceled checks, bank statements and requisitions are reviewed to see that the grantee has an adequate system of financial management. REDD staff may also make specific requests to review information or documentation relating to financial management of a grant.

20. CCR Registration

The Federal Funding Accountability and Transparency Act (FFATA) of 2006 mandates specific reporting requirements for recipients of federal funds. Grants Administration is required by FFATA to submit information to the Office of Management and Budget (OMB) through an electronic Sub Award Reporting System (FSRS) on all grant awards greater than \$25,000 which are awarded on or after October 1, 2010. In order to report in this system, each sub award recipient is required to register in the Central Contractor Registration (CCR) system. The CCR is a government-wide registry for organizations that do business with the federal government.

For all CDBG grants equal to or greater than \$25,000 awarded after October 1, 2010, the recipient must register with the Central Contractor Registration (CCR) system. The CCR system may be accessed online at <http://www.ccr.gov>

Since REDD is required to report information as a part of FFATA for grants awarded after October 1, 2010, the CCR registration will be required prior to submission of a CDBG application. Once obtained, the CCR registration must be updated or renewed at least once a year. REDD staff will monitor for compliance with this requirement.

21. Duplication of Benefits Prevention

Grantees are required to comply with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC 5121-5207 as amended. Section 312 of the Stafford Act prohibits any person, business concern, or entity from receiving “any part of such loss as which he has received financial assistance under any other program, insurance or any source.” Compliance will be achieved by carrying out the requirements of the Duplication of Benefits (DOB) Procedure for Program Lenders (CDFIs), NC CDBG-DR Small Business Recovery Assistance Program. The requirements specify the information that must be obtained by a program lender from small business loan applicants and provided to the North Carolina Department of Commerce for each lender request to commit funds to a program-funded loan.

22. Other Requirements and Attachments

Recipients will also be required to comply with any subsequent requirements issued by HUD and/or REDD. If key items are not submitted with the application, it must be returned to the applicant.

8.0 AWARD

8.1 Application for Award

To solicit for applicants for grant awards from this program, the Department of Commerce will issue a Notice of Funds Available (NOFA). The NOFA will describe the program and specify the requirements an applicant must meet to be selected for an award. Applicants will be required to provide requested administrative, financial, and proposed program implementation information to apply for a grant award. This requirement will be developed and will be incorporated in the NOFA.

8.2 Selection for Award

SBRA Program funds will be awarded to qualified potential grantees through a competitive process. Grantees will be selected, and the accompanying awards will be announced on a date to be established. Instructions and documentation required to accept an award will be provided at that time.

Applicants’ submissions in response to a published Notification of Funds Availability will be reviewed for consistency with general CDBG and specific program requirements. All eligible applications will be evaluated using the selection and evaluation criteria discussed earlier. After receiving and reviewing potential grantee program submissions, REDD will recommend selected applicants to the Secretary of Commerce, who will make the final selection of grantees and awards.

8.2 Notification of Award and Acceptance of Award

Applicants selected for a grant award will be notified by letter. The letter will specify the amount of award offered and will include a term sheet. Acceptance of the award by a grantee will be accomplished by the grantee signing the term sheet provided where specified and returning that document to the Department of Commerce as directed by the award letter. In addition, the grantee must submit a series of certifications, as specified below under “SBRA ACCEPTANCE CERTIFICATION REQUIREMENTS”. Once a grantee has accepted its award and submitted the required certifications, the Department of Commerce will provide the grantee a grant agreement, detailing all conditions required for acceptance of the grant, and performance required to receive grant funds. Grantee execution of this grant agreement will constitute acceptance of the grant and commitment to perform as specified in the agreement.

9.0 SBRA ACCEPTANCE CERTIFICATION REQUIREMENTS

A portion of the process of accepting an SBRA award is submission of certain CDBG certifications, as well as certain other information. Applicants selected are required to submit the required certifications and additional documents as part of the process of accepting a grant award. Applicants should be directed to use the table below as a submission document checklist. All items listed are required to be submitted as part of award acceptance documentation. The certifying documents requiring signature are provided following the table along with a copy for grantee information of Provisions of North Carolina General Statutes Addressing Public Records, Confidential Information and Economic Development Projects. Several items listed must be obtained (CCR) or prepared by the grantee. All items listed must be provided. **Applicants shall be directed to include labeled tabs for each of the certifications.**

TAB	
CENTRAL CONTRACTOR REGISTRATION (CCR) <input type="checkbox"/> Initial <input type="checkbox"/> Annual Update	
FEDERAL CERTIFICATION	
DISCLOSURE STATEMENT	
DISCLOSURE OF CIVIL RIGHTS COMPLAINTS/LAWSUITS BY GRANTEE	
CONFLICT OF INTEREST STATEMENT	
CAPACITY, EXPERIENCE, AND ORGANIZATIONAL STRUCTURE <input type="checkbox"/> List of Names and Duties for the Grantee’s Staff supporting the SBRA Program <input type="checkbox"/> Resume for each identified person associated with the SBRA Program <input type="checkbox"/> Organizational Chart Identifying the Reporting Relationship and/or Interaction Among Key Players for the SBRA Program	
CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS	
STATE CERTIFICATION	
DRAWDOWN PLAN	
Other (Please specify)	

9.1 Provisions of North Carolina General Statutes Addressing Public Records

Confidential Information and Economic Development Projects

§ 132-1. "Public records" defined.

(a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

(b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information. (1935, c. 265, s. 1; 1975, c. 787, s. 1; 1995, c. 388, s. 1.)

§ 132-1.1. State tax information

(b) **State and Local Tax Information.** – Tax information may not be disclosed except as provided in G.S. 105-259. As used in this subsection, "tax information" has the same meaning as in G.S. 105-259. Local tax records that contain information about a taxpayer's income or receipts may not be disclosed except as provided in G.S. 153A-148.1 and G.S. 160A-208.1.

§ 132-1.2. Confidential information.

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

- (1) Meets all of the following conditions:
 - a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
 - b. Is the property of a private "person" as defined in G.S. 66-152(2).
 - c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.
 - d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

§ 66-152. Definitions. (Trade Secrets Protection Act)

As used in this Article, unless the context requires otherwise:

- (2) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, joint venture, or any other legal or commercial entity.
- (3) "Trade secret" means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:
 - a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
 - b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons. (1981, c. 890, s. 1.)

§ 132-1.11. Economic development incentives.

(a) **Assumptions and Methodologies.** – Subject to the provisions of this Chapter regarding confidential information and the withholding of public records relating to the proposed expansion or location of specific business or industrial projects when the release of those records would frustrate the purpose for which they were created, whenever a public agency or its subdivision performs a cost-benefit analysis or similar assessment with respect to economic development incentives offered to a specific business or industrial project, the agency or its subdivision must describe in detail the assumptions and methodologies used in completing the analysis or assessment. This description is a public record and is subject to all provisions of this Chapter and other law regarding public records.

(b) **Disclosure of Public Records Requirements.** – Whenever an agency or its subdivision first proposes, negotiates, or accepts an application for economic development incentives with respect to a specific industrial or business project, the agency or subdivision must disclose that any information obtained by the agency or subdivision is subject to laws regarding disclosure of public records. In addition, the agency or subdivision must fully and accurately describe the instances in which confidential information may be withheld from disclosure, the types of information that qualify as confidential information, and the methods for ensuring that confidential information is not disclosed. (2005-429, s. 1.2.)

§ 132-6. Inspection and examination of records.

(a) Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law. As used herein, "custodian" does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing.

(b) No person requesting to inspect and examine public records, or to obtain copies thereof, shall be required to disclose the purpose or motive for the request.

(c) No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information. If it is necessary to separate confidential from nonconfidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation on the following schedule:

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the proposed expansion or location of specific business or industrial projects may be withheld so long as their inspection, examination or copying would frustrate the purpose for which such public records were created; provided, however, that nothing herein shall be construed to permit the withholding of public records relating to general economic development policies or activities.

Once the State, a local government, or the specific business has announced a commitment by the business to expand or locate a specific project in this State or a final decision not to do so and the business has communicated that commitment or decision to the State or local government agency involved with the project, the provisions of this subsection allowing public records to be withheld by the agency no longer apply.

Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the announced project that are not otherwise made confidential by law.

An announcement that a business or industrial project has committed to expand or locate in the State shall not require disclosure of local government records relating to the project if the business has not selected a specific location within the State for the project. Once a specific location for the project has been determined, local government records must be disclosed, upon request, in accordance with the provisions of this section. For purposes of this section, "local government records" include records maintained by the State that relate to a local government's efforts to attract the project.

§ 132-9. Access to records.

(b) In an action to compel disclosure of public records which have been withheld pursuant to the provisions of G.S. 132-6 concerning public records relating to the proposed expansion or location of particular businesses and industrial projects, the burden shall be on the custodian withholding the records to show that disclosure would frustrate the purpose of attracting that particular business or industrial project.

9.2 Federal Requirements and Certifications

The applicant hereby assures and certifies that:

- (a) It will comply with all applicable federal and state laws, regulations, rules and Executive Orders.
- (b) It possesses legal authority to apply for the grant, and to execute the proposed program.
- (c) Its governing body has duly adopted a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with application and to provide such additional information as may be required.
- (d) Its chief executive officer or other officer of the applicant if assistance is approved by Commerce:
 - (1) Consents to assume the status of the “responsible Federal Official” as that term is used in Section 102 of the National Environmental Policy Act (NEPA), Section 104(f) of Title 1 of the Housing and Community Development Act of 1974, as amended, and other provisions of Federal law, as specified in 24 CFR 58.5 which further the purposes of NEPA.
 - (2) Is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such official.
 - (3) Consents to review and comment on all Environmental Impact Statements prepared for Federal projects which may have an impact on the applicant’s/recipient’s community development program.
 - (4) Consents to perform all coordination functions required under 24 CFR Part 58 and 40 CFR Parts 1500-1508.
- (e) The Community Development Block Grant (CDBG) Program has been developed so as to give maximum feasible priority to activities which will benefit designated flood-affected counties having an Urgent Need to expand access to small business credit, aiding the recovery of the small business base in these counties.
- (f) Its program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284, and that will affirmatively further fair housing.
- (g) It will comply with all provisions of 4 NCAC 19L of the North Carolina Administrative Code, entitled North Carolina Community Development Block Grant Program.
- (h) It will give Commerce, HUD and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers or documents related to the grant.
- (i) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- (j) It will follow a residential anti-displacement and relocation assistance plan that is in accordance with the provisions of Section 104(d) and all other provisions of the Act.
- (k) It has or will develop a plan that identifies community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs.

- (l) Its notification, inspection, testing and abatement procedures concerning lead-based paint will comply with 24 CFR 570.608.
- (m) When issuing statements, press releases, request for proposals, bid solicitation and other documents describing the above-mentioned program such as the environmental review, public hearings, fair housing notices, etc., it shall clearly state
 - (1) the percentage of the total cost of the project which will be financed with CDBG money, and
 - (2) the dollar amount of CDBG funds for the project.
- (n)
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (o) If a Unit of Local Government, It has adopted and will enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and has adopted and is enforcing a policy of enforcing applicable state and local laws against any individuals engaged in nonviolent civil rights demonstrations and has adopted and is enforcing a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction in accordance with Section 519 of Public Law 101-144, (the 1990 HUD Appropriations Act).
- (p) All project areas for funded projects are either not in a floodplain, or if the project area is in a floodplain, the applicant's funds recipient participates in the flood insurance program. All properties assisted in the project will be covered for flood insurance prior to beginning construction.

CERTIFICATION OF ABILITY

The Lending Entity of _____ hereby certifies its ability to meet Federal Performance and Procurement Requirements with Certification as further expanded in the preceding attachments.

Name of Chief Executive Officer _____

Title _____

Signature _____

Date _____

9.3 Certifications Regarding Debarment, Suspension, and Other Responsibility Matters

Applicants should refer to the regulations cited below. Applicants should also review the instructions for certification included in the regulations before completing this form, signature on this form provides for compliance with certification requirements implementing Federal Executive Order 12549 and guidance issued in the *Federal Register*, Volume 70, No. 168, pages 51863 through 51880 for "Government wide Debarment and Suspension (Nonprocurement)." The certification shall be treated as a material representation of fact upon which reliance will be placed when the Department of Commerce determines to award the covered transaction, grant or cooperative agreement.

As required by Executive Order 12549, Debarment and Suspension, for prospective participants in primary covered transactions:

- 1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- 2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification(s).

Name of Applicant/Grantee	Grant Number and Project Name
Printed Name and Title of Authorized Representative	
Signature	Date

9.31 Instructions for Debarment Certifications

1. By signing and submitting this form, the prospective participant is providing the certification set out on the "Certification Regarding Debarment, Suspension and Other Responsibility Matters" in accordance with these instructions.
2. Consequences of False Certification - The certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. Errors in Certifying. - The prospective participant shall provide immediate written notice to the person to which this proposal is submitted if, at any time, the prospective participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. Definitions and Further Guidance - The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause have the meanings set out in the Definitions and Coverage section of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations or you may refer to the *Federal Register*, Vol. 70, No. 168, pages 51863 -51880.
5. Certification Extends to Subcontractors - The prospective participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. Certification Included in Subcontracts - The prospective participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. Reliance on Certification - A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transition, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. New System of Records Not Required - Nothing contained in the foregoing should be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Consequences for Use of Ineligible Subgrantees - Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

9.32 Disclosure Report

1. Applicant/Recipient Name, Address, and Phone:
2. Check One: ☐ Initial Report ☐ Update Report
3. Social Security Number or Employer ID Number: _____
4. Project Name and Location:
5. Total Amount requested/received (including anticipated program income): \$_____
6. Other government assistance. Check One:

☐ No other government assistance is, or is expected to be, provided for this program.

☐ All other government assistance provided for this project is listed on the attached page(s).

(Note: Disclosures must be complete and accurate, but need to be made only once for this report. If assistance is reported in the Sources and Uses disclosure section, then it need not also be reported here. If there is assistance reportable here, but reported only in the Sources and Uses disclosure, check here:

☐ Assistance is disclosed in Sources and Uses Attachments

<u>Agency Name and Address</u>	<u>Program and Type of Assistance</u>	<u>Amount Requested/Received</u>

7. Interested Parties. Check One:

☐ No parties have a reportable financial interest in this project. Interested parties include developers, contractors, consultants, individuals, entities including units of government with a financial interest greater than \$50,000 or 10 percent of the assistance (whichever is **lower**; being a party to a contract procured under Federal procurement regulations at 24 CFR Part 85 does not, by itself, constitute a reportable financial interest).

☐ All parties with a reportable financial interest are listed below.

<u>Name and Address</u>	<u>Type of Participation</u>	<u>Interest (\$ and %)</u>

8. All expected sources of funds available or expected to be available for the project or activity and all reportable uses of funds are included in the application for funds and on the following forms (check all that apply):

____ CDBG PROJECT BUDGET

____ CDBG LOCAL COMMITMENT FORM

____ Other Attachment(s). Describe: _____

9. Certification:

I hereby certify that all information in this report and its attachments is true and complete.

Signature/Title

Date

9.33 Disclosure Report Instructions

Who Should Complete the Report?

All applicants who expect to receive an aggregate amount of covered federal assistance for a project or activity that exceeds \$200,000 are required to make certain disclosures. State CDBG funds are covered by the requirement, as are most other programs where funds are administered by or passed through the U.S. Department of Housing and Urban Development. Therefore, all applicants for more than \$200,000 in NC CDBG funds, including anticipated program income, should complete the report. In addition, any applicants to a State grantee for a subgrant should complete the report if more than \$200,000 in covered assistance is or can reasonably be anticipated. The requirement addresses the aggregate amount of assistance. Therefore, if the applicant anticipates less than \$200,000 in CDBG assistance, but intends to combine the funds with enough other covered assistance (such as Section 8 project-based Housing Assistance Payments) to exceed \$200,000 in total assistance, the applicant must make the disclosures. Any applicant/recipient who is required to complete a disclosure report for another agency in conjunction with a project assisted with State CDBG funds may submit a copy of that disclosure report to the Department of Commerce rather than completing a separate report.

Recipients who have previously filed disclosure reports must file update reports if the information in the original report changes either because of later developments subject to disclosure, or because of changes in the amount of government assistance, the sources of funds, or the uses of funds equal to the lower of \$250,000 or 10 percent of the applicable base (usually total project costs), or because of an increase in the financial interest of a person equal to the lower of \$50,000 or 10 percent of such interest.

Detailed Instructions

1. Enter the name, address, and telephone number, including area code, of the applicant or recipient.
2. Indicate whether the report is an initial report or an update report.
3. Enter the Social Security Number or the Employer Identification Number of the applicant or recipient.
4. Enter the project name and indicate the location as specifically as possible. In the case of update reports, give the CDBG grant number.
5. Enter the total amount of assistance being requested as stated in the application, including anticipated program income. In the case of update reports, enter the total amount of assistance provided according to the funding approval and anticipated program income.
6. Indicate whether other government assistance is being provided, or can reasonably be expected to be provided, for the project. Other government assistance includes any loan, grant, guarantee, insurance payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is being sought.

If other government assistance is provided, or expected to be provided for the project, all such assistance must be disclosed on attachments incorporated into the report. The disclosures should list the granting agency, the program and type of assistance (e.g., grant, loan, guarantee), and the amount expected to be made available. Disclosures need only be made once, so that if this information is given in the Sources and Uses attachments, this may be indicated by checking the appropriate blank under “6. Other Government Assistance”.

7. Indicate whether there are persons with a reportable financial interest in the project. “Person” means an individual, corporation or business, unit of general local government or other governmental entity or agency or any other organization or group of people. A reportable financial interest is any financial involvement in the project including equity interest, shares in any profit on resale or distribution of cash or other assets, or receipt of compensation for goods or services provided in connection with the project or activities, which can be expected to exceed the lower of \$50,000 or 10 percent of the assistance sought. Compensation for performance of a contract procured under Federal procurement regulations is not, by itself, a covered financial interest. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

If there are parties with a reportable financial interest, the name and pecuniary interest of the parties must be disclosed in referenced attachments. If the party is an entity such as a unit of government or a corporation, the disclosure must include an identification of each officer, director, and/or principal stockholder. The pecuniary interest disclosure must include the type of participation (such as owner, contractor, investor) and the amount of the financial interest expressed both as a dollar amount and as a percentage of the amount of assistance involved.

8. Reference the statement or statements attached to the report showing the sources and uses of the funds available for, or expected to be available for, the project. Disclosure must be made of the gross amount of funds from all sources, including both governmental and non-governmental sources of funds and private capital resulting from tax benefits. For most projects, the financial forms in the appropriate guidelines will be adequate to document sources and uses. Please note, however, that if the “Other Government Assistance” disclosure section references the Sources and Uses Disclosures, then these Disclosures must identify the program and type of assistance.
9. Certification: The signatory certifies that all information in the report is complete and accurate. That is, except as disclosed in the report and attachments, there is no other government assistance, no other interested parties, and no other sources and uses of funds.

9.4 Disclosure of Civil Rights Complaints/Lawsuits

The POTENTIAL GRANTEE, _____, hereby assures and certifies that there are no open, unresolved or pending civil rights complaints or lawsuits against the applicant for this Small Business Recovery Assistance Program. If there are any liens that have been placed on the applicant, this fact must be disclosed and the circumstances of the lien must be described below. Furthermore, the applicant assures and certifies that it has not filed, nor does it have plans to file, for bankruptcy under Title 11 of the United States Code. If there are lawsuits pending, provide an explanation from the company's legal counsel about the circumstances and the impact of a judgment.

Signature of Chief Executive Officer/Authorized Applicant Representative

Title

Date

9.5 Conflict of Interest Checklist

To assist applicants with determining if a potential conflict of interest exists, as defined in 24 CFR Part 570.489 (h), please provide responses to the following questions. For any “yes” response, refer to Bulletin 10-8 for next steps.

1. Does any person involved with this potential CDBG project have family or business ties with any of the local government elected officials or local government staff?
2. Has any person involved with this potential CDBG project requested or received an opinion about a potential conflict of interest from an attorney or from the North Carolina Ethics Commission?
3. Does any person involved with this potential CDBG project have an ownership interest in an entity that is directly affected by activities proposed in the application?
4. Will any person involved with this potential CDBG project derive any income or commission as a direct result of action taken by the local government elected board or its staff?

10. STATE CDBG PROGRAM REGULATIONS

A. Administration of Project

If funded, grantee will meet minimal levels of supervision in implementing the project as follows:

1. At least two persons from the grantee will review invoices and requests for payment.
2. The grantee program administrator reviews and signs off on all project reports.
3. All project files will be maintained at the grantee's main offices and made available to citizens during regular business hours.

B. Audits/Compliance

CDBG grantees expending \$25,000 or more in a fiscal year are **required** to have funds audited for the CDBG program. CDBG funds can be used to pay for the CDBG portion of the audit provided the grantee has expended \$500,000 or more in the fiscal year in total federal awards (CDBG and other federal funds). If the grantee has expended less than \$750,000 in total federal awards, the grantee may budget local funds in the administrative line item in the CDBG application to pay for the CDBG portion of the audit and claim the local administrative funds as local commitment.

C. Program Income

If the local government makes a loan to the developer or business, a plan for reuse of funds will be developed subject to REDD approval.

D. Legally Binding Commitment (LBC)

The grantee will develop and execute a LBC with the small businesses to which funds are provided under this program, subject to REDD requirements.

The applicant hereby assures and certifies that by his/her signature, its duly authorized official has read and understands the State CDBG Program Standards and, if funded, will adhere to all standards applicable to the funded project.

Name of Chief Executive Officer/Authorized Representative

Title

Signature

Date

11. DRAWDOWN PLAN

Please include and clearly identify the use of CDBG-DR funds and the timeline over the project period for drawing down the funds. Recognize that the reimbursement method payment will be applied in this program.

12. PROGRAM IMPLEMENTATION

Implementation of the Small Business Recovery Assistance Program encompasses all steps following execution of the grant agreement through closeout of the program. The components of implementation are broken into sections as listed:

- Delegation of Responsibilities to Grantee
- Confirmation of underwriting standard
- Confirmation of award conditions with Grantees
- Establishment of the lending approval process
- Establishment of Duplication of Benefits (DOB) procedure
- Submission of environmental analyses
- Establishment of the reimbursement-to-grantee process
- Loan monitoring
- Loan forgiveness
- Program Closeout

12.1 Delegation of Responsibilities to Grantee

The grantee shall be responsible for primary compliance with and approval of regulatory, underwriting, and program requirements of the SBRA Program, except for approval of the environmental analysis prepared for each loan awarded. The environmental analysis, provided via an Environmental Review Report (ERR) with appropriate checklists, will be prepared and submitted by the grantee for approval by the North Carolina Department of Commerce or HUD, as appropriate. Approval of the ERR will be required before approval can be given to the grantee to commit funds to the related loan.

12.2 Underwriting

Grantees will provide traditional, industry standard underwriting practices as currently employed in their ongoing operations to loans awarded under this program. Credit analysis, credit checks, background checks, and other appropriate actions will be taken during the underwriting process. Credit worthiness and applicant's financial condition will be reviewed during this evaluation.

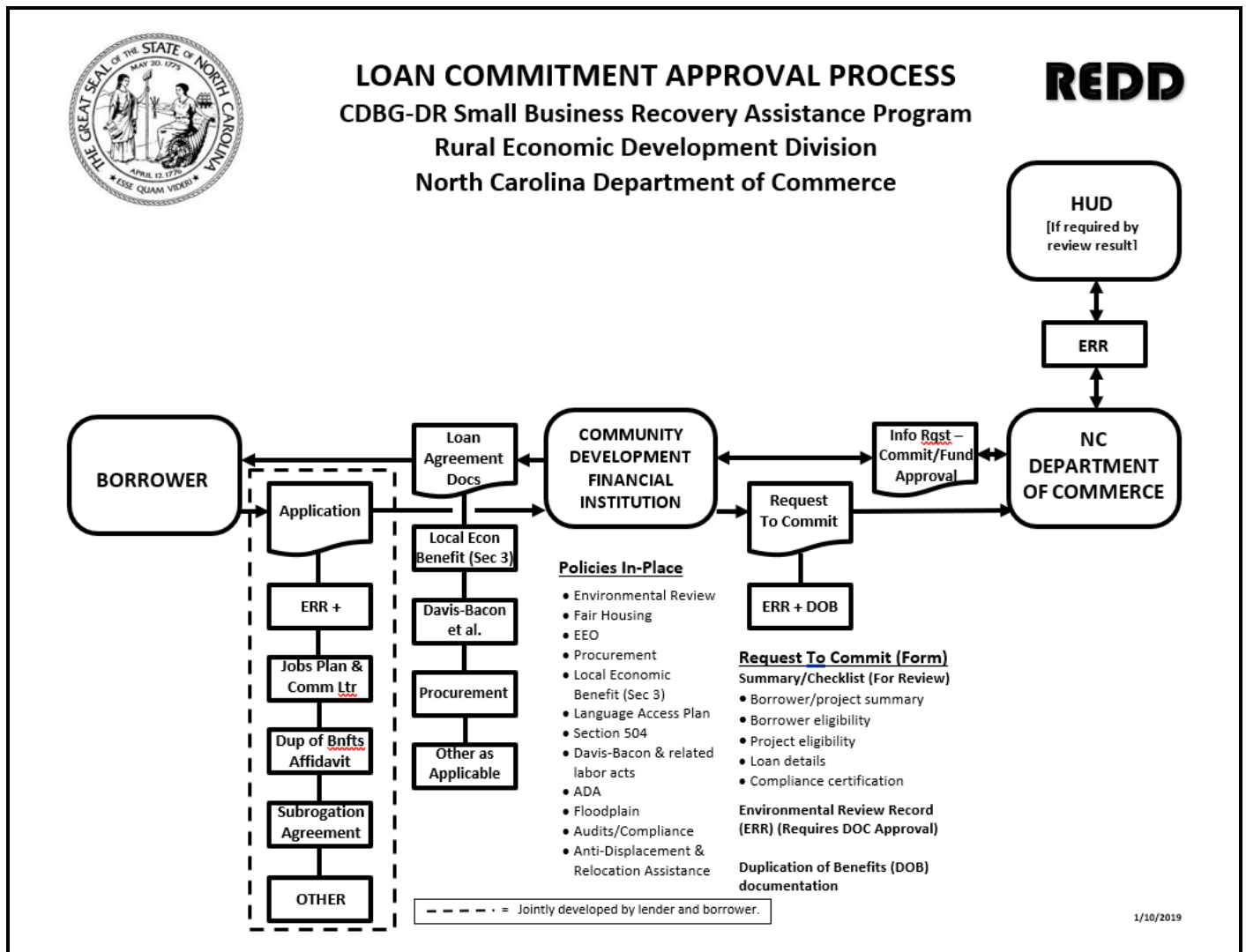
12.3 Confirmation of Award Conditions with Grantees

Upon full execution of the grant agreement, the Department of Commerce will schedule and conduct a review of all grant conditions with each grantee. Performance of this review will be documented by the checklist included as **Exhibit E-6** and acknowledged by the signature on the checklist of an authorized representative of the grantee.

12.4 Lending Approval Process

As established through the Delegation of Responsibilities to Grantee and the grant agreement, the grantee is responsible for sourcing, screening, underwriting, requesting approval to commit funds to, submitting an ERR, submitting duplication of benefits (DOB) documentation, funding, and managing loans under the CDBG-DR SBRA Program. The process flow for a lender to commit CDBG-DR funds to a borrower is presented in Figure 1 below.

Figure 1



Before the grantee may unconditionally commit CDBG-DR funds to a loan under this program, it must complete and submit to the NC Department of Commerce the form, Lender Request to Commit Funds, **Exhibit E-1**, accompanied by duplication of benefit (DOB) documentation specified in the Duplication of Benefits (DOB) Procedure for Program Lenders (CDFIs), **Exhibit E-2**. A completed Environmental Review Report (ERR) with checklists for the subject loan must also be submitted with the Lender Request to Commit Funds. When the ERR is approved, the Lender Request to Commit Funds will be approved, indicated by the signature of an authorized NC Department of Commerce (DOC) official. The grantee requesting approval will be informed of approval by receipt of the DOC-signed Lender Request to Commit Funds form submitted. This process serves

to authorize the grantee to release funds, and the NC Department of Commerce to reimburse the grantee for funds released when a request for reimbursement with required supporting documents confirming funds disbursement is received.

12.5 Duplication of Benefits Procedure

The Stafford Act requires action be taken to ensure that a recipient of CDBG-DR funds does not receive payment from multiple sources for the same use. The specific procedure to be followed is provided as **Exhibit E-2**. The DOB verification procedure responsibilities are split between the Community Development Financial Institutions (CDFI's) implementing this program and the SBRAP staff in the North Carolina Department of Commerce (DOC). The CDFI's are responsible for gathering from the small business loan applicant the information required to perform the DOB assessment, and for submitting that information with their request for approval to commit program loan funds to DOC. DOC is responsible for performing the duplication of benefits verification and determining the maximum SBRAP loan available, based on the borrower information submitted and the result of confirmation of benefits received with third party sources. The DOC procedure is included in **Exhibit E-2**. This procedure defines for DOC and the lender how the maximum loan amount is determined. If the maximum loan available based on the DOB assessment is less than the loan amount requested, DOC will notify the lender and provide support as needed for the lender to revise its loan request.

12.6 Environmental Analysis

As identified in the lending approval process, for each loan to be funded under this program, an Environmental Review Report must be prepared and submitted for approval to the NC Department of Commerce along with the request to commit funds to the loan. Each activity to be funded by the loan, whether with CDBG-DR funds or grantee matching funds, must be identified on the ERR and taken into consideration when categorizing collectively the activities to be funded. ERR forms and technical guidance will be provided on request by REDD.

12.7 Reimbursement Process

A grantee may request reimbursement for three categories of cost:

- Project Costs (loans disbursed)
- Activity Delivery Costs (costs incurred directly related to delivery of a specific CDBG-DR project or service; e.g. applicant intake/eligibility screening in a specific program) (24 CFR 570.201-204)
- Program Administrative Costs (costs incurred for the general management, oversight, and coordination of the CDBG-DR grant) (24 CFR 570.205-206 and 570.409(a))

Grantees will use the CDBG-Draw Request form, **Exhibit E-3**, to request reimbursement of all categories of cost. The Department of Commerce will provide this form. The form may be modified by the NC Department of Commerce at any time.

A request for reimbursement may be for a single loan or cost category or multiple loans and cost categories. For each activity cost claimed, specific supporting document is required, noted below.

1. Loans Disbursed
 - a. List of loans, with borrower, amount, date disbursed identified
 - b. For each loan,
 - i. Copy of Approved Lender Request to Commit Funds
 - ii. Loan agreement
 - iii. Proof of funds disbursement
 - iv. Borrower jobs commitment document (if applicable)
 - v. Underwriting documentation (when requested by NC Department of Commerce)
2. Activity Delivery Costs
 - a. For personnel costs claimed, a list of individuals with hours claimed, cost per hour, total costs claimed for the specific period of the claim. Other elements being claimed must also be listed and valued. The individual costs shown must sum to the total cost claimed.
 - b. Copies of manager-approved timesheets covering the period of the request, listing time by activities by day, identifying those activities which costs are being claimed for Activity Delivery Costs.
3. Program Administrative Costs
 - a. For personnel costs claimed, a list of individuals with hours claimed, cost per hour, total costs claimed for the specific period of the claim. Payroll records must be provided to validate cost per hour claimed for individuals. Other elements being claimed must also be listed and valued. The individual costs shown must sum to the total cost claimed.
 - b. Copies of manager-approved timesheets covering the period of the request, listing time by activities by day, identifying those activities which costs are being claimed for Program Administrative Costs.

Requests for reimbursement from grantees will be processed and paid at specific intervals during each month, depending in part on when the requests are received. A processing and payment calendar will be provided to program grantees to guide the timing of their reimbursement submissions.

12.8 Loan Monitoring

Grantees will be expected to monitor SBRA Program loans before and after funding through their normal business practices. As guidance, the steps below are expected to be a part of those normal business practices.

Pre-Funding Review -- Eligibility Monitoring

1. Loans will be reviewed by the DR grantee to ensure they meet program guidelines
2. Loans will be reviewed by the DR grantee for adherence to HUD CDBG underwriting guidelines:
 - a. Are project costs reasonable?
 - b. Are all sources of financing committed?
 - c. Funds are not substituting for non-Federal support?
 - d. Is the project financially feasible?
 - e. Is the return on equity reasonable?
 - f. Are CDBG funds being disbursed on a pro-rata basis?
3. Loans will be reviewed for applicable CDBG Regulations depending on funding use:
 - a. National Objectives

- b. Civil Rights (incl. Section 3 and Section 504)
- c. Environmental Requirements
- d. Labor Requirements
- e. Procurement Requirements
- 4. On-site review of all businesses prior to funding

During Funding Review -- Performance Monitoring

- 1. Review of 100% of funded businesses' records and documentation to:
 - a. Confirm program compliance;
 - b. Manage program performance;
 - c. Ensure continued compliance; and
 - d. Minimize fraud, waste and abuse.
 - e. Assure timely and accurate disbursement of funds
- 2. On-site review of all businesses during funding period within 1 year of closing.
- 3. Review a 10% random sample of sub-recipient's contractor's documentation. If the level of non-compliance is significant, the sample size will be increased by 10%.
- 4. Verify that all files contain all required closing documents and related information.

Post-funding Review

- 1. Verify files contain all required documentation, especially use of funds information.
- 2. Require quarterly financial statements from all businesses due on the 30th of the month following the previous quarter.

Ongoing Loan Monitoring and Servicing of Recipients

- 1. The DR grantee compliance staff monitors loans per standard loan protocol, along with CDBG regulations.
- 2. The DR grantee is expected to make customary and reasonable efforts to collect on loans.

Audit Findings

All audit findings shall be recorded in detail by the DR grantee and shall detail both compliance of application and use of funds. Issues of non-compliance shall be categorized as either material or administrative. Companies found to be in material non-compliance, or which received funds in error, may be required to repay grant or loan funds to the State, as per the Terms and Conditions agreement. Companies found to be willfully fraudulent will be prosecuted.

12.9 Loan Forgiveness Execution

The portion of a loan (or one of the pair of loans) funded with CDBG-DR funds under this program is required to be forgivable over a three-year period, one-third of the principal forgiven at the end of each year, if certain conditions are met. Those conditions depend on which CDBG National Objective is being met by a specific loan.

For those loans meeting the National Objective of Urgent Need, the requirement is that the small business that received the loan is still in business, operating as the business that received the loan, and is determined by the lender to be likely to be an ongoing business at the end of each year of the forgivable loan term. The grantee will verify and document through its normal methods that this is the case. The grantee will **irrevocably** forgive one-third of the loan within sixty days of verification through the process established in the

borrower's loan agreement. Once this process is completed, the grantee will notify the NC Department of Commerce of the completed forgiveness action through confirming documentation of qualification and forgiveness in a timely manner.

For those loans meeting the National Objective of being of benefit to low- and moderate- income (LMI) persons, the borrower will have established in its loan agreement a commitment by year to retain or add a specific number of jobs filled by LMI persons. In this case, loan forgiveness during each year of the loan term is based on the borrower's performance against its jobs commitment. The rules for qualification for forgiveness throughout the three-year term of the forgivable loan are:

Loan forgiveness practice for LMI-Jobs objective loans:

1. One-third of the CDBG-funded loan will be **irrevocably** forgiven in a given year **if**:
 - a. The number of jobs to be retained and/or added for that year is met, **and**,
 - b. All jobs retained and/or added in all previous program years are still in place.
2. One-third of the CDBG-funded loan **will not be forgiven** in a given year **if**:
 - a. The number of jobs to be retained and/or added for that year is **not** met, **or**,
 - b. The number of jobs to be retained and/or added for that year is met, **but** jobs to have been retained and/or added in previous years are not in place at the end of the current year.
3. For Years 1 & 2 of the forgivable loan, if job goals have not been met in either or both years, the lender has the option, but not the requirement, to declare the loan in default. The lender must conclude that the borrower has a reasonable opportunity of meeting the cumulative job goals at the end of the three-year loan term.

Unforgiven portions of the CDBG-funded loan **will be forgiven** at the end of the three-year loan term, if all jobs to be retained or added in the business's binding jobs commitment plan are in place (filled jobs, not empty positions), **regardless of when they were added.**

Table 1
CONDITIONS FOR LOAN FORGIVENESS

	YEAR TERMS OF DEFERRED INTEREST, FORGIVABLE LOAN									
	YEAR 1		Year 2				YEAR 3			
JOBS	J ₁	NJ ₁	J ₁ J ₂	NJ ₁ J ₂	J ₁ NJ ₂	NJ ₁ NJ ₂	J ₁ J ₂ J ₃	NJ ₁ J ₂ J ₃	NJ ₁ NJ ₂ J ₃	NJ ₁ NJ ₂ NJ ₃
FORGIVEN	F ₁	NF ₁	F ₁ F ₂	NF ₂	NF ₂	NF ₂	F ₁ F ₂ F ₃	NF ₃	NF ₃	NF ₃

J_N = Jobs goal met for year "N" (1,2, or 3)

NJ_N = Jobs goal not met for year "N"

F_N = 1/3 loan forgiven for year "N"

NF_N = 1/3 loan not forgiven for year "N"

13. PROGRAM CLOSEOUT

Program closeout will be carried for each grantee, then the program in total. To execute closeout, reference CDP 14-02, Community Planning & Development, U.S. Department of Urban Development and Housing, Community Development Block Grant Disaster Recovery Program Grant Closeout Instructions and Forms. Carry out the instructions as appropriate.

Exhibit E-1 - Lender Request to Commit Funds Form



LENDER REQUEST TO COMMIT FUNDS

CDBG-DR SMALL BUSINESS RECOVERY ASSISTANCE PROGRAM
RURAL ECONOMIC DEVELOPMENT DIVISION
NORTH CAROLINA DEPARTMENT OF COMMERCE

REDD

DATE	
LOAN ID	

DESIRED COMMITMENT DATE	
----------------------------	--

NATIONAL OBJECTIVE		LMI		Urgent Need
--------------------	--	-----	--	-------------

LENDER		CONTACT	
		PHONE	
		EMAIL	

BORROWER		ADDRESS	
TYPE OF BUSINESS		COUNTY	

LOAN:	
CDBG-DR – Funds	
Matching	
TOTAL	

TERMS:	
--------	--

Qualifying Hurricane Matthew Physical or Economic Damage OR Economic Development Opportunity	
--	--

Recovery/Economic Development Activities to be Funded	
--	--

UNMET NEED/NO FUNDS AVAILABLE

Total Need - Recovery	
Recovery Funds Received	
Unmet Need/No Funds Available	

JOBS PLAN/COMMITMENT

JOBS	YEAR 1	YEAR 2	YEAR 3
Retained			
Added			

CERTIFICATION OF ELIGIBILITY

<input type="checkbox"/>	Meet the standards of a small business as defined in Title 13, Code of Federal Regulations, Part 121 (13 CFR part 121).
<input type="checkbox"/>	Require funds to recover from Hurricane Matthew-caused damage, especially flooding.
<input type="checkbox"/>	Have no other source of funds for their unmet needs to meet Matthew recovery costs.
<input type="checkbox"/>	Have their primary place of business located in Matthew-caused flood-affected areas of North Carolina, especially the counties of Robeson, Cumberland, Edgecombe, and Wayne.

CERTIFICATION OF COMPLIANCE

✓	NA		✓	NA	
<input type="checkbox"/>	<input type="checkbox"/>	LMI	<input type="checkbox"/>	<input type="checkbox"/>	Davis-Bacon & related labor acts
<input type="checkbox"/>	<input type="checkbox"/>	Jobs commitment (borrower)	<input type="checkbox"/>	<input type="checkbox"/>	Floodplain
<input type="checkbox"/>	<input type="checkbox"/>	Local economic benefit (Sect 3)	<input type="checkbox"/>	<input type="checkbox"/>	Section 504 (Limited ADA)
<input type="checkbox"/>	<input type="checkbox"/>	Procurement policy	<input type="checkbox"/>	<input type="checkbox"/>	Anti-Displacement & Relocation Assistance
<input type="checkbox"/>	<input type="checkbox"/>	Duplication of Benefits Affidavit	<input type="checkbox"/>	<input type="checkbox"/>	Environmental Review Report Provided

LENDER CERTIFICATION

_____[Name of Lender] hereby certifies that the information and certifications of borrower eligibility and loan compliance provided herein are accurate and true; and, that any additional requirements associated with this proposed loan have been met.

Signature - Authorized Official

Title

Date

Name (Printed)

NC DEPARTMENT OF COMMERCE APPROVAL TO COMMIT FUNDS (Environmental Requirements Met):

Signature - Authorized Official

Title

Date

Name (Printed)

Instructions for Form Completion: Lender Request to Commit Funds

For fields requiring an explicit entry (e.g. Date), a definition is provided. For a field requiring a comprehensive entry (e.g. “Qualifying Hurricane Matthew Physical or Economic Damage. . .”) a description of the required entry is provided.

Date – Enter the date that the form is completed.

Loan ID – (Optional) If the submitter wants to assign a loan ID, he/she may enter the ID here

Desired Commitment Date – Enter the lender’s requested date for DOC loan approval

National Objective – Check one box or the other (LMI vs. Urgent Need) as appropriate

Lender – Enter the name of lending organization

Contact – Enter the name of the individual on the lender’s staff to be contacted if DOC has questions about a loan

Phone – Enter the phone number where the contact can be reached

Email - Enter the contact’s business email

Borrower – Enter the legal name of the small business requesting the loan

Type of Business – Enter the borrower’s type of business as the borrower would describe it (e.g. Heavy Haul Trucking)

Address – Enter the legal address of the small business requesting the loan.

County – Enter the name of the North Carolina county in which the borrower is legally located.

LOAN:

CDBG-DR – Funds: Enter the dollar amount of the loan requested

Matching – No longer used

Total – Enter the dollar amount of the loan requested (same as CDBG-DR – Funds)

TERMS - Enter briefly the terms of the loan requested (should be the standard 3-year 0% interest, deferred, forgivable loan)

Qualifying Hurricane Matthew Physical or Economic Damage... - Describe the economic and/or physical damage suffered by the small business borrower due to Hurricane Matthew. Be specific as to the specific types of damage experienced (e.g. vehicles damaged, equipment destroyed, inventory damaged, customers lost, very low or no revenue for x weeks or months, working capital exhausted in recovery, . . .). Do not list economic development opportunity as this has not been authorized.

Recovery/Economic Development Activities to be Funded – List specific qualified recovery activities to be funded by this loan. (e.g. inventory replacement, marketing program, working capital replenishment). Do not list economic development activities, as this had not been authorized.

UNMET NEED/NO FUNDS AVAILABLE:

Total Need – Recovery – Enter the **Total Need (\$)** amount shown on the DOB form **Statement of Total Need – Hurricane Matthew Recovery.**

Recovery Funds Received – If the borrower has reported insurance payments, SBA assistance, or flood insurance payments, enter the total of these amounts (\$)

Unmet Need/No Funds Available – Subtract Recovery Funds Received from the Total Need – Recovery, enter the remaining Amount. Entering an amount here is declaring that this financial need remains, and that no other sources of funds are available to the borrower.

JOBS PLAN/COMMITMENT – Enter the number of jobs by category that are applicable for the borrower. If the loan is meeting the Urgent Need national objective, with no commitment by the borrower, enter the number of jobs for HUD reporting purposes. If the loan is meeting the national objective of LMI-Jobs, enter the number of jobs that the borrower is committing to in a binding agreement as part of the loan. Apply the definition of retained and added jobs provided in the program information guide.

Retained – Enter the number of jobs to be retained by the benefit of the requested loan by year.

Added – Enter the number of jobs to be added by the benefit of the requested loan by year.

Instructions for Form Completion: Lender Request to Commit Funds (Cont.)

CERTIFICATION OF ELIGIBILITY – Checking the boxes in this section confirms that the borrower has been confirmed to meet the eligibility requirements of the program: small business (SBA), funds required for Matthew recovery, no other funds available, and located in one of the North Carolina counties declared eligible for federal relief funds.

CERTIFICATION OF COMPLIANCE – This section contains checkboxes for ten regulatory items with which each program loan must comply, as specified in the program grant agreement. For each item, the lender certifier shall either check the box “√”, indicating understanding and compliance with the specific item, or check the box “NA”, indicating understanding of the item’s requirements and that there are no activities being funded in the specific loan addressed which require application of the item’s regulatory requirements. **The requirement to flow down all regulatory requirements from the grant agreement into each borrower’s loan agreement must be met regardless of their application in activities funded in a specific loan. Checking the “NA” box for any item does not relieve this requirement.**

LENDER CERTIFICATION – The legal name of the lending organization (CDFI) shall be entered in the blank preceding the notation “[Name of Lender]”. This certification must be signed by an official of the lending organization who is authorized by that organization to assert and certify the information provided on this form, as stated in the certification statement. Signing this certification represents the lender’s assertion that it has met all of the requirements and responsibilities delegated to it by this program for the loan for which approval to commit funds is being requested.



Exhibit E-2 - Duplication of Benefits Procedure for Program Lenders (CDFIs)

NC CDBG-DR Small Business Recovery Assistance Program

Duplication of Benefits (DOB) Procedure for Program Lenders (CDFIs)

Purpose

This procedure is intended to prevent payment of duplicate benefits in the assistance provided to support the recovery of small businesses from the effects of Hurricane Matthew. It sets out steps to be taken to prevent fraud, waste, and abuse of the allocation of funds received by the State of North Carolina from the Housing Urban Development (HUD), Community Development Block Grant-Disaster Recovery (CDBG-DR) program.

Requirement

The authority for this procedure is the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC 5121-5207 as amended. Section 312 of the Stafford Act prohibits any person, business concern, or entity from receiving "any part of such loss as which he has received financial assistance under any other program, insurance or any source."

Definition

Per 42 USC 5155(a), a duplication of benefits (DOB) occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a recovery purpose. The amount of the duplication is the amount of assistance provided more than need.

Compliance

The Stafford Act requires action be taken to ensure that a recipient of CDBG-DR funds does not receive payment from multiple sources for the same use. To comply with this requirement, the State of North Carolina, the entity awarding CDBG-DR funds, must conduct third party verification of benefits that the potential disaster recovery funds recipient affirms to have received prior to receiving CDBG-DR funds. The purpose of this verification is to confirm that duplicate payments will not have been received or will not be received, or that the amount of payment(s) received for the same purpose as CDBG-DR funds must reduce the amount of CDBG-DR funds to be loaned.

The responsibility of the lender (CDFI) is to obtain from the potential recipient (small business borrower) of CDBG-DR funds a disclosure of funds received, to be received, or to be applied (e.g. working capital, personal savings, . . .) for recovery from physical or economic damage caused by Hurricane Matthew. The lender (CDFI) is also to obtain from the potential recipient a statement of financial need, listing by category, needs to recover from physical and economic damage. This listing of need, considering the recovery funds already received, will define the unmet need that will support determination of the amount of forgivable loan available to the subject small business under this program.

For DOB verification to be carried out for a potential small business borrower, the DOB information obtained for that small business is included in the documentation requesting approval to commit funds to a CDBF-DR SBRAP loan, submitted by the lender (CDFI) to the North Carolina Department of Commerce (DOC). Completion of DOB verification and any resulting adjustments is a required component of the approval process and will be reflected in the documentation of approval to commit funds.

Once the lender has received approval to commit funds to a loan, one final step must be taken as part of the loan closing process. A subrogation agreement must be executed between the small business borrower and the lender (CDFI). This agreement commits the borrower to returning or supporting the recovery of any recovery assistance funds received that are determined by the State of North Carolina to be a duplication of benefits (DOB) as defined above.

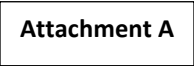
The lender (CDFI) shall follow the procedural flow listed below.

Duplication of Benefits Lender Procedure

- (1) Borrower completes, signs, and submits:
 - a. Statement of Total Need – Hurricane Matthew Recovery (Attachment A)
 - b. Duplication of Benefits Affidavit (Attachment B)
 - c. Duplication of Benefits Certification (Attachment C)
 - d. North Carolina CDBG-DR Consent to Release Information (Attachment D)
 - e. Subrogation Agreement (Attachment E)
- (2) Lender (CDFI) forwards the four DOB documents as part of the submission package to request approval to commit funds to the North Carolina Department of Commerce (DOC). That submission now consists of:
 - a. Lender Request to Commit Funds
 - b. Environmental Review Report
 - c. Statement of Total Need – Hurricane Matthew Recovery
 - d. Duplication of Benefits Affidavit
 - e. Duplication of Benefits Certification
 - f. North Carolina CDBG-DR Consent to Release Information
- (3) **[DOC Action]** As part of the approval process for the request to commit funds, DOC will complete the DOB verification, document results, and as part of the approval/denial process, will provide any adjustment needed to the proposed loan amount as part of the documented approval notification.
- (4) Lender (CDFI) and borrower execute the DOB Subrogation Agreement by loan closing. The subrogation agreement is to be included in loan closing documents.

Responsibility

The North Carolina Department of Commerce is responsible for performing the DOB verification process and for the integrity of the results obtained. The lender (CDFI) is responsible for collecting and submitting the specified DOB information and documentation.



Statement of Total Need – Hurricane Matthew Recovery

North Carolina CDBG-DR Small Business Recovery Assistance Program (SBRAP)

Purpose: Use this form to document the total financial need of the small business applicant to recover from physical and economic damage due to Hurricane Matthew prior to expenditure of any recovery funds.

Physical/Economic Damage or Loss (e.g. building, equipment, inventory, working capital, customers, . . .)	\$ Need for Recovery	Basis for \$ Need Determination**	Recovery Expenditure To-Date
Total Need (\$)	\$		\$

**** Basis for \$ Need Determination:** Source of amount, for example 1) repair or replacement quote, 2) inventory unit cost and quantity estimate, 3) financial analysis of working capital need within business plan in place, 4) marketing program cost, other factors relevant to item of recovery.

The information provided in this statement of total need is true and complete to the best of my knowledge and belief.

Small Business Applicant's Representative

Small Business Applicant's Representative _____ Date _____

Print Name _____

Small Business Applicant (business name)



DUPLICATION OF BENEFITS AFFIDAVIT

CDBG-DR NC SMALL BUSINESS RECOVERY ASSISTANCE PROGRAM (SBRAP) – HURRICANE MATTHEW

INSTRUCTIONS

- The affidavit is divided into five (5) components:
1.

Statement of the requirement to complete and submit this Duplication of Benefits Affidavit.
2.

Disclosure of insurance in place at the time of the disaster and any benefits received.
3.

Government, bank and any and all other funding received by a business for disaster related losses.
4.

Attachments;
5.

Signature(s)

Read each component in full and provide the information requested.

Part 1. Requirement and Objective: NC CDBG-DR SBRAP Duplication of Benefits Affidavit

This affidavit must be completed by all businesses that are applying for or have received any assistance from the CDBG-DR-funded Small Business Recovery Assistance Program being offered for recovery from damage caused by Hurricane Matthew and its aftermath by the State of North Carolina through *[insert SBRAP subrecipient (CDFI)]*. The information within this affidavit will provide the State of North Carolina with vital information needed for processing the application as required by the Stafford Act Section 312 on Duplication of Benefits.

Part 2. Insurance: In Force/Claims Paid

Insurance company information must be completed even if the Company named herein did not receive insurance monies as compensation for Hurricane Matthew. If there was insurance on the damaged property, the name of the insurance company, policy number, claim number, and settled amount, if any, must be provided. Copies of the insurance policies in place at the time of disaster, and any correspondence with the insurance companies on or after October 8, 2016 must be attached to this affidavit.

The undersigned authorized representative of the applicant, *[insert business name]*, makes the following statements and swears that they are true:

1.

I hereby state that I am the owner of *[insert business name]* (the “Applicant”) and am duly authorized by the Applicant to make the certifications contained in this Affidavit on behalf of the Applicant.
2.

I hereby state and certify to the United States Department of Housing and Urban Development and to the North Carolina Department of Commerce as follows (please check one blank):

☐

On any date on or after October 8, 2016, property, flood, and/or wind, economic injury, business interruption or any other kind of insurance **WAS** carried and in force for *[insert business name]*.

☐

On any date on or after October 8, 2016, **NO** property, flood, and/or wind, economic injury, business interruption or any other kind of insurance was carried and in force for *[insert business name]*. If insurance was carried by *[insert business name]*, fill in the information requested below using the insurance information in effect at the time of damage to the Property due to Hurricane Matthew, on or after October 8, 2016.

Please provide information regarding any such insurance policies and information regarding claims filed and paid, if any, in the designated spaces below. If no claim was filed under an insurance policy listed below, fill in the applicable blank with "None."

Insurance Company Name	
Policy Number	
Type of Insurance	
Claim Number	
Settled Amount	

Insurance Company Name	
Policy Number	
Type of Insurance	
Claim Number	
Settled Amount	

Insurance Company Name	
Policy Number	
Type of Insurance	
Claim Number	
Settled Amount	

Insurance Company Name	
Policy Number	
Type of Insurance	
Claim Number	
Settled Amount	

Insurance Company Name	
Policy Number	
Type of Insurance	
Claim Number	
Settled Amount	

Part 3. Government, Bank and Other Funding Sources

This section identifies any sources of funds that the business has received because of damage from Hurricane Matthew other than insurance. Sources of funds include but are not limited to: Federal, state and local loan/grant programs, private or bank loans, nonprofit donations or loans. Examples include the Small Business Administration and Golden Leaf. Please indicate below the amount provided to your business from any and all funding sources as noted.

Source of Funds #1

Lender/Grant Provider Name		
Purpose		
Amount		
<input type="checkbox"/> Government Loan	<input type="checkbox"/> Government Grant	<input type="checkbox"/> Government Forgivable Loan
<input type="checkbox"/> Nonprofit Grant	<input type="checkbox"/> Nonprofit Loan	<input type="checkbox"/> Nonprofit Forgivable Loan
<input type="checkbox"/> Private Loan	<input type="checkbox"/> Other: _____	

Source of Funds #2

Lender/Grant Provider Name		
Purpose		
Amount		
<input type="checkbox"/> Government Loan	<input type="checkbox"/> Government Grant	<input type="checkbox"/> Government Forgivable Loan
<input type="checkbox"/> Nonprofit Grant	<input type="checkbox"/> Nonprofit Loan	<input type="checkbox"/> Nonprofit Forgivable Loan
<input type="checkbox"/> Private Loan	<input type="checkbox"/> Other: _____	

Source of Funds #3

Lender/Grant Provider Name		
Purpose		
Amount		
<input type="checkbox"/> Government Loan	<input type="checkbox"/> Government Grant	<input type="checkbox"/> Government Forgivable Loan
<input type="checkbox"/> Nonprofit Grant	<input type="checkbox"/> Nonprofit Loan	<input type="checkbox"/> Nonprofit Forgivable Loan
<input type="checkbox"/> Private Loan	<input type="checkbox"/> Other: _____	

Source of Funds #4

Lender/Grant Provider Name		
Purpose		
Amount		
<input type="checkbox"/> Government Loan	<input type="checkbox"/> Government Grant	<input type="checkbox"/> Government Forgivable Loan
<input type="checkbox"/> Nonprofit Grant	<input type="checkbox"/> Nonprofit Loan	<input type="checkbox"/> Nonprofit Forgivable Loan
<input type="checkbox"/> Private Loan	<input type="checkbox"/> Other: _____	

Part 4. Attachments

Attached to this Affidavit are copies of the following:

1. Each insurance policy in force on or after October 8, 2016.
2. All correspondence relating to the insurance policies described in (1) of this sentence, including correspondence regarding any claims filed under such insurance policies. No other correspondence with respect to any such insurance policies and/or claims has been received by me as of the date of this Affidavit.
3. Acceptable Documentation confirming each of the sources of funds acquired as a result of October 8, 2016 disaster and its aftermath.

Part 5. Signature(s)

By executing this Duplication of Benefits Affidavit, Applicant(s) acknowledge understanding that Title 18 United States Code Section 1001: (1) makes it a violation of federal law for a person to knowingly and willfully (a) falsify, conceal, or cover up a material fact; (b) make any materially false, fictitious, or fraudulent statement or representation; OR (c) make or use any false writing or document knowing it contains a materially false, fictitious, or fraudulent statement or representation, to any branch of the United States Government; and (2) requires a fine, imprisonment for not more than five (5) years, or both, which may be ruled a felony, for any violation of such Section. The Applicant(s) further acknowledges that the information contained in and enclosed with the affidavit is accurate and true to the best of the Applicant's knowledge.

Dated this the ____ day of _____, 20XX.

Applicant Representative

Applicant Representative Name (Print)



DUPLICATION OF BENEFITS CERTIFICATION
State of North Carolina
CDBG-DR Small Business Recovery Assistance Program

The undersigned, on behalf of and as a duly authorized agent and representative of _____ (Small Business Applicant), certifies and represents that all information contained in and enclosed with the attached and executed North Carolina Small Business Recovery Assistance Program Duplication of Benefits Affidavit dated [enter date of affidavit signature] is true to the best of his or her knowledge and acknowledges that the State of North Carolina has relied on such information to authorize [Subrecipient/CDFI] to close a loan and disburse funds to the Applicant under the terms of the North Carolina CDBG-DR Small Business Recovery Assistance Program (NC CDBG-DR SBRAP).

The Applicant also certifies that s/he has disclosed to the [Subrecipient/CDFI] in the application process, all FEMA, SBA, insurance proceeds, and other funds received, or to be received, from governmental and/or non-profit agencies as compensation for damages resulting from the declared disaster for which assistance may be provided by the [Subrecipient/CDFI].

The Applicant certifies that s/he will disclose to the [Subrecipient/CDFI] all future FEMA, SBA, insurance proceeds or other funds received from governmental and/or non-profit agencies as compensation for damages resulting from the declared disaster for which assistance has been provided in the form of SBRAP CDBG-DR funds for three years from the date those funds were provided in the form of a forgivable loan by the [Subrecipient/CDFI].

The Applicant acknowledges that s/he may be prosecuted by Federal, State, or local authorities and/or that repayment of all disaster recovery funds may be required in the event that the Applicant makes or files false, misleading, or incomplete statements and/or documents. The Applicant also agrees to repay any assistance later received for the same purpose as the CDBG-DR funds for three years from the date that CDBG-DR funds were provided in the form of a forgivable loan by [Subrecipient/CDFI].

Date

Signature

Printed Name

Small Business Name (Applicant)



North Carolina CDBG-DR Consent to Release Information

As the duly authorized agent and representative of _____ [*insert small business applicant business name*](“Applicant”) I, _____ (full name) currently residing at _____ (current address), hereby consent to the disclosure of information regarding the Applicant collected by the Federal Emergency Management Agency (FEMA), Small Business Administration (SBA), homeowner insurance companies, National Flood Insurance Program (NFIP), and/or other organizations listed below to the State of North Carolina.

The purpose of this disclosure is to assist with the determination of the eligibility of the Applicant, with its primary place of business located at _____ [*insert full address of primary business location*], for the CDBG-DR Small Business Recovery Assistance Program administered by the State of North Carolina, located at _____ at the time damage was incurred as a result of Hurricane Matthew.

I consent to the following information being disclosed to the State of North Carolina to assist with the determination of eligibility and amount of unmet recovery need:

- Documentation of the amount paid to the Applicant by its insurance companies for physical or economic damage in as a result of Hurricane Matthew.
- Documentation of all financial assistance provided to the Applicant, received by the Applicant, or made available to the Applicant for Matthew disaster assistance, and the purpose of that assistance.
- My current contact information as representative of the Applicant.
- Other entities as identified by the State of North Carolina.

To provide the coordination of recovery efforts among agencies and non-profits, and the prevention of duplication of services, I consent that the above information may be disclosed to the following organizations by the State of North Carolina:

- Other entities as identified by the State of North Carolina.

All the information contained in this Consent to Release Information is true and complete to the best of my knowledge and belief.

Representative Date Applicant’s



SUBROGATION AGREEMENT

State of North Carolina

CDBG-DR Small Business Recovery Assistance Program

This Subrogation and Assignment Agreement (“Agreement”) is made and entered into on this ____day of _____, 20____, by and between _____ (“Business”) and _____ *[insert name of lender/CDFI]* (“Lender”).

In consideration of Business’ receipt of funds or the commitment by Lender to evaluate Business’ application for the receipt of funds (collectively, the “Loan Proceeds”) under the North Carolina CDBG-DR Small Business Recovery Assistance Program (the “Program”) administered by Lender, Business hereby assigns to Lender all of Business’ future rights to reimbursement and all payments received from any grant, subsidized loan, or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency (“FEMA”) or the Small Business Administration (“SBA”) (singularly, a “Disaster Program” and collectively, the “Disaster Programs”) for Hurricane Matthew loss that was the basis of the calculation of the unmet need determined for the Program, and in-part defined Loan Proceeds paid or to be paid to Business under the Program and that are determined in the sole discretion of the State of North Carolina to be a duplication of benefits (“DOB”) as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as “Proceeds,” and any Proceeds that are a DOB shall be referred to herein as “DOB Proceeds.” Upon receiving any Proceeds not listed on the Duplication of Benefits Affidavit, Business agrees to immediately notify the Lender who will notify the State of North Carolina of such additional amounts, and the State of North Carolina will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to the Lender, to be returned to the State of North Carolina.

Business agrees to assist and cooperate with the Lender and elects to pursue any of the claims Business has against the insurers for reimbursement of DOB Proceeds under any such policies. Business’ assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Business’ name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by the Lender. Business further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Business would be entitled to under any applicable Disaster Program.

If requested by the Lender, Business agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the Lender, to the extent of the Loan Proceeds paid to Business under the Program, the Policies, any amounts received under the Disaster Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the Lender to consummate and make effective the purposes of this Agreement.

Business explicitly allows the Lender and the State of North Carolina to request of any company with which Business held insurance policies, or FEMA or the SBA or any other entity from which Business has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by the Lender or the State of North Carolina to monitor/enforce its interest in the rights assigned to it under this Agreement and give Business’ consent to such company to release said information to the Lender.

If Business (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Business agrees to promptly pay such amounts to the Lender, if Business received Loan Proceeds under the Program in an amount greater than the amount Business would have received if such DOB Proceeds had been considered in the calculation of Business’ award.

In the event that the Business receives or is scheduled to receive any Proceeds not listed on its Duplication of Benefits Affidavit (“Subsequent Proceeds”), Business shall pay such Subsequent Proceeds directly to the Lender, and the State of North Carolina will determine the amount, if any, of such Subsequent Proceeds that are DOB Proceeds (“Subsequent DOB Proceeds”). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to the Business. Subsequent DOB Proceeds shall be disbursed as follows:

- 1. If the Business has received full payment of the Loan Proceeds, any Subsequent DOB Proceeds shall be retained by the Lender and remitted to the State of North Carolina.
- 2. If the Business has received no payment of the Loan Proceeds, any Subsequent DOB Proceeds shall be used by the Lender to reduce payments of the Grant/Loan Proceeds to the Business, and all Subsequent DOB Proceeds shall be returned to the Business.
- 3. If the Business has received a portion of the Loan Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Loan Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to the Business; and (B) any remaining Subsequent DOB Proceeds shall be retained by the Lender and remitted to the State of North Carolina.
- 4. If the Lender makes the determination that the Business does not qualify to participate in the Program or the Business determines not to participate in the Program, the Subsequent DOB Proceeds shall be returned to the Business, and this Agreement shall terminate.

Once the Lender has recovered an amount equal to the Loan Proceeds paid to Business, the Lender will reassign to Business any rights assigned to the Lender pursuant to this Agreement.

Business represents that all statements and representations made by Business regarding Proceeds received by Business shall be true and correct as of the date of Closing.

The Applicant acknowledges that s/he may be prosecuted by Federal, State, or local authorities and/or that repayment of all disaster recovery funds may be required in the event that the Applicant makes or files false, misleading, or incomplete statements and/or documents.

BUSINESS
[insert business name]

LENDER:
[Lender/CDFI]

By:_____

By:_____

Name/Title:_____

Name/Title:_____



NORTH CAROLINA

Department of Commerce

North Carolina CDBG-DR Small Business Recovery Assistance Program

Duplication of Benefits Procedure (DOB)

CDBG-DR Small Business Recovery Assistance Program (SBRAP)

1. Purpose

This procedure is intended to prevent payment of duplicate benefits in the assistance provided to support the recovery of small businesses from the effects of Hurricane Matthew. The procedure is specific to the North Carolina CDBG-DR Small Business Recovery Assistance Program. It sets out steps to be taken to prevent fraud, waste, and abuse of the allocation of funds received by the State of North Carolina from the Housing Urban Development (HUD), Community Development Block Grant-Disaster Recovery (CDBG-DR) program.

2. Requirement

The authority for this procedure is the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC 5121-5207 as amended. Section 312 of the Stafford Act prohibits any person, business concern, or entity from receiving "any part of such loss as which he has received financial assistance under any other program, insurance or any source."

3. Definition

Per 42 USC 5155(a), a duplication of benefits (DOB) occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a recovery purpose. The amount of the duplication is the amount of assistance provided more than need.

4. Compliance

The Stafford Act requires action be taken to ensure that a recipient of CDBG-DR funds does not receive payment from multiple sources for the same use. To comply with this requirement, the State of North Carolina, the entity awarding CDBG-DR funds, must conduct third party verification of benefits that the potential disaster recovery funds recipient affirms to have received prior to receiving CDBG-DR funds. The purpose of this verification is to confirm that duplicate payments will not have been received or will not be received, or that the amount of payment(s) received for the same purpose as CDBG-DR funds must reduce the amount of CDBG-DR funds to be loaned.

5. Responsibilities

The DOB verification procedure responsibilities are split between the Community Development Financial Institutions (CDFI's) implementing this program and the SBRAP staff in the North Carolina Department of Commerce (DOC). The CDFI's are responsible for gathering from the small business borrower the information required to perform the DOB assessment, and for submitting that information with their request for approval to commit program loan funds to DOC. DOC is responsible for performing the duplication of benefits verification and making a determination of the maximum SBRAP loan available, based on the borrower information submitted and the result of confirmation of benefits received with third party sources.

6. Procedure

- a. **Summary.** For DOB verification to be carried out for a potential small business borrower, required DOB information is obtained by the lending CDFI for that small business. This information is included in the documentation requesting approval to commit funds to a CDBF-DR SBRAP loan, submitted by the lender (CDFI) to DOC. Completion of DOB verification and any resulting adjustments is a required component of the DOC approval process and will be reflected in the documentation of approval to commit funds.

b. CDFI Responsibilities.

- (1) The responsibility of the CDFI is to obtain from the potential recipient (small business borrower) of CDBG-DR funds a disclosure of funds received, to be received, or to be applied (e.g. working capital, personal savings, . . .) for recovery from physical or economic damage caused by Hurricane Matthew. The lender (CDFI) is also to obtain from the potential recipient a statement of financial need, listing by category, needs to recover from physical and economic damage. This listing of need, considering the recovery funds already received, will define the unmet need that will support determination of the amount of forgivable loan available to the subject small business under this program.
- (2) Once the lender has received approval to commit funds to a loan, one final step must be taken as part of the loan closing process. A subrogation agreement must be executed between the small business borrower and the lender (CDFI). This agreement commits the borrower to returning or supporting the recovery of any recovery assistance funds received that are determined by the State of North Carolina to be a duplication of benefits (DOB) as defined above.

c. DOC SBRAP Responsibilities.

- (1) At the program implementation, the DOB procedure for CDFI's must be distributed to each CDFI. SBRAP staff must provide initial review of the procedure with CDFI staff and determine that its requirements are understood, as part of a technical assistance visit.
- (2) DOC must gain access to the databases of claims paid for Hurricane Matthew damage by the Small Business Administration and by the National Flood Insurance Program. These data bases will be used to determine or confirm what benefits, if any, were received by each potential small business borrower for which an CDFI has submitted a request to commit loan funds.
- (3) When a CDFI submits a request to commit funds [to a SBRAP loan] including DOB verification information, DOC will verify the benefits received information and subsequently determine the maximum available SBRAP loan amount for the individual small business for which the loan is requested. Completion of this step is required before any request to commit funds can be approved.

d. Process Flow. (Borrower forms are found in the DOB Procedures for Program Lenders (CDFIs))

- (1) Borrower completes, signs, and submits the Statement of Total Need – Hurricane Matthew Recovery
 - i. Duplication of Benefits Affidavit
 - ii. Duplication of Benefits Certification
 - iii. North Carolina CDBG-DR Consent to Release Information
 - iv. Subrogation Agreement
- (2) CDFI forwards the four DOB documents as part of the submission package to request approval to commit funds to the North Carolina Department of Commerce (DOC). That submission now consists of:
 - i. Lender Request to Commit Funds
 - ii. Environmental Review Report
 - iii. Statement of Total Need – Hurricane Matthew Recovery
 - iv. Duplication of Benefits Affidavit
 - v. Duplication of Benefits Certification
 - vi. North Carolina CDBG-DR Consent to Release Information
- (3) As part of the approval process for the request to commit funds, DOC will complete the DOB verification, document results, and as part of the approval/denial process, will provide any adjustment needed to the proposed loan amount as part of the documented approval notification. Steps are:
 - i. Check small business borrower against SBA database for loans provided, note result of search on the determination of maximum loan amount allowable form (Attachment 1).
 - ii. Check small business borrower against NFIP database for assistance provided, note result on the determination form.
 - iii. Check submitted insurance payment information for verification with insurer through direct contact or accept lender-provided insurer payment documentation if provided. Note result on the determination form.

- iv. For other assistance reported, verify directly with provider, note result on the determination form.
 - v. Complete the determination form, entering reported total need from the borrower's need form, note any assistance deemed duplicative, remove from the need total, and calculate the net need, then the maximum available SBRAP loan available base on the current loan cap. The maximum loan available will be the difference between the net need calculated and the current loan cap. A net need lower than the loan cap will reduce the maximum available loan to the lesser of the need and cap.
 - vi. Incorporate the results of the maximum loan amount available into the loan approval process, coordinating adjustment of the loan amount requested if greater than the maximum available determined by this DOB process.
- (4) Lender (CDFI) and borrower execute the DOB Subrogation Agreement by loan closing. The subrogation agreement is to be included in loan closing documents.



NORTH CAROLINA
Department of Commerce

North Carolina CDBG-DR Small Business Recovery Assistance Program

**DETERMINATION OF MAXIMUM
NC CDBG-DR SBRAP AVAILABLE LOAN AMOUNT**

Applicant: _____

Lender: _____

ITEMS	USE	\$	VERIFIED
Total Need Before Assistance <i>(Per statement of need)</i>			
Assistance Received <i>(Per DOB Affidavit)</i>			
1. Insurance (non-flood)			
a.			
b.			
Total Insurance			
2. SBA Assistance			
3. Flood Insurance			
4. Other			
Total Assistance Received			
Assistance Determined as Duplicative			
1.			
2.			
Total Duplicative Assistance			
Net Need <i>(Total Need - Duplicative Assistance)</i>			
Maximum Available SBRAP Loan Amount <i>(Net Need amount, up to \$150,000 loan cap)</i>			

Verified by:
Name: _____

Title: _____

Date: _____

Field Definitions for form: DETERMINATION OF MAXIMUM NC CDBG-DR SBRAP AVAILABLE LOAN AMOUNT

Applicant: The small business applying for the SBRAP loan.

Lender: The grantee/CDFI requesting approval to commitment funds to a loan to the Applicant.

Field identifiers listed in table:

Total Need Before Assistance: The dollar value of Total Need shown on the duplication of benefits form, **Statement of Total Need – Hurricane Matthew Recovery**.

Assistance Received: Information fields that follow this heading are to be completed with the information reported by the Applicant on the Duplication of Benefits Affidavit submitted.

1. **Insurance (non-flood):** Insurance payments received for disaster-related damage or loss other than flood-related from non-government sponsored insurers.
2. **SBA Assistance:** Loans or other financial assistance from the Small Business Administration.
3. **Flood Insurance:** Payments from a National Flood Insurance Program lender for disaster-related flood damage.
4. **Other:** Any other financial assistance for disaster recovery from a public source that would be considered duplicative of CDBG-DR SBRAP loan funds.

Total Assistance Received: The sum of all dollar amounts entered as received for assistance.

Assistance Determined as Duplicative: Individual items listed under **Assistance Received** determined to be duplicative payments, as stated in the Federal Register Vol. 76, No. 221, November 16, 2011, Docket No. FR-5582-N-01.

Total Duplicative Assistance: The sum of the dollar values of the individual items listed under **Assistance Determined as Duplicative**.

Net Need: The **Total Need Before Assistance (\$)** amount minus the **Total Duplicate Assistance (\$)** amount.

Maximum Available SBRAP Loan Amount: The amount (\$) of **Net Need**, up to the current loan cap for the program (\$150,000 at present). **Net Need** in excess of the current program loan cap will be ignored.

Columns:

“USE”:

1. For **Total Need Before Assistance**, list the major categories of loss or depletion (e.g. vehicles damaged or destroyed; working capital depleted in partial recovery from damage)
2. For all other categories, enter the repair or replacement by major category that funds received will be use for; for calculated fields, ignore use.

“\$”: Enter amounts in dollars and cents (XXXX.XX).

“Verified”: Reviewer is to review and confirm each amount entered, either against DOB documentation submitted, against SBA and National Flood Insurance databases, or other sworn or third-party documentation. Review is to note result of review, what data source was referenced, and action taken to resolve discrepancies.

Exhibit E-3 - Sample CDBG-DR Draw Request

NC CDBG-DR Small Business Recovery Assistance Program

Department of Commerce CDBG-DR Draw Request							
Grantee Name				Contract Number		17-R-XXXX	
Grantee Address				Draw Request #		X	
				Date			
Loan Number				DUNS Number			
Borrower Name							
Borrower Address							

Project Name	CDBG-DR Eligible Activity Name	DRGR Activity Number	Budget Amount	Amount Previously Invoiced	Available Balance	Amount of this Invoice	Balance After Invoice
Homeowners			\$ -	\$ -	\$ -	\$ -	\$ -
			-	-	-	-	-
			-	-	-	-	-
			-	-	-	-	-
Total Homeowners			\$ -	\$ -	\$ -	\$ -	\$ -
Small Rental			\$ -	\$ -	\$ -	\$ -	\$ -
			-	-	-	-	-
			-	-	-	-	-
			-	-	-	-	-
Total Small Rental			\$ -	\$ -	\$ -	\$ -	\$ -
Multi-Family			\$ -	\$ -	\$ -	\$ -	\$ -
			-	-	-	-	-
			-	-	-	-	-
			-	-	-	-	-
Total Multi-Family			\$ -	\$ -	\$ -	\$ -	\$ -
Elevation/Buyout			\$ -	\$ -	\$ -	\$ -	\$ -
			-	-	-	-	-
			-	-	-	-	-
			-	-	-	-	-
Total Elevation/Buyout			\$ -	\$ -	\$ -	\$ -	\$ -

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Department of Commerce CDBG-DR Draw Request							
Public Housing			\$ -	\$ -	\$ -	\$ -	\$ -
			-	-	-	-	-
			-	-	-	-	-
Total Public Housing			\$ -	\$ -	\$ -	\$ -	\$ -
Supportive Services			\$ -	\$ -	\$ -	\$ -	\$ -
			-	-	-	-	-
			-	-	-	-	-
Total Supportive Services			\$ -	\$ -	\$ -	\$ -	\$ -
Planning and Capacity			\$ -	\$ -	\$ -	\$ -	\$ -
			-	-	-	-	-
			-	-	-	-	-
Total Planning and Capacity			\$ -	\$ -	\$ -	\$ -	\$ -
Small Business Program	Finance Mechanism - UN	9995BA7XXX	\$ 1,900,000.00	\$ 300,000.00	\$ 1,600,000.00	\$ -	\$ 1,600,000.00
	Finance Mechanism - LMI	9995BA7XXX	1,900,000.00	-	1,900,000.00	150,000.00	1,750,000.00
			-	-	-	-	-
Total Small Business Program			\$ 3,800,000.00	\$ 300,000.00	\$ 3,500,000.00	\$ 150,000.00	\$ 3,350,000.00
Community Recovery			\$ -	\$ -	\$ -	\$ -	\$ -
			-	-	-	-	-
			-	-	-	-	-
			-	-	-	-	-
Total Community Recovery			\$ -	\$ -	\$ -	\$ -	\$ -
Administration	Administration		\$ 200,000.00	\$ -	\$ 200,000.00	\$ -	\$ 200,000.00
Grand Total			\$ 4,000,000.00	\$ 300,000.00	\$ 3,700,000.00	\$ 150,000.00	\$ 3,550,000.00

I certify that this request for federal funds has been prepared in accordance with the terms and conditions of the contract, and that the contract, and that the amount requested is for eligible expenditures as per the federal, state and local regulations cited in the contract. I also certify that all the data reported above is correct and that the amount of the request for federal funds is not in excess of current needs.

Authorized Signature (1)	Date	Authorized Signature (2)	Date
Title		Title	

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LAST PAGE OF DOCUMENT